



LEGISLATIVE RESEARCH COMMISSION
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UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING DATE, THE HEARING MAY BE CANCELLED.

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is tentatively scheduled on July 9-10, 1990. See tentative agenda on pages 2-4 in this Administrative Register

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

| Title | Chapter | Regulation |
|---|--|------------------------|
| 806 | KAR 50 | : 155 |
| Cabinet, Department, Board or Agency | Office, Division, or Major Function | Specific Regulation |

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ADMINISTRATIVE REGISTER - 1

ADMINISTRATIVE REGULATIONS FOUND DEFICIENT

The administrative regulations listed below were found deficient by at least one legislative subcommittee during the 1988-89 interim and the 1990 General Assembly. Those administrative regulations found deficient shall expire on the effective date for Acts of the 1990 Regular Session. The appropriate subcommittee which found the administrative regulations deficient are also listed.

A&R: Appropriations and Revenue

ARRS: Administration Regulation Review Subcommittee

Ag&NR: Agriculture and Natural Resources

H&W: Health and Welfare

| <u>Reg. No.</u> | <u>Found Deficient By:</u> | <u>Reg. No.</u> | <u>Found Deficient By:</u> |
|-----------------|----------------------------|-----------------|----------------------------|
| 101 KAR 2:030 | ARRS | 103 KAR 43:270 | ARRS & A&R |
| 101 KAR 2:040 | ARRS | 103 KAR 43:270 | A&R |
| 101 KAR 2:050 | ARRS | 103 KAR 43:290 | ARRS |
| 101 KAR 2:060 | ARRS | 103 KAR 43:290 | A&R |
| 101 KAR 2:070 | ARRS | 103 KAR 43:300 | ARRS |
| 101 KAR 2:090 | ARRS | 103 KAR 43:300 | A&R |
| 101 KAR 3:040 | ARRS | 103 KAR 44:010 | A&R |
| 103 KAR 16:040 | A&R | 103 KAR 5:010 | A&R |
| 103 KAR 16:050 | A&R | 103 KAR 5:015 | A&R |
| 103 KAR 16:070 | A&R | 103 KAR 5:050 | A&R |
| 103 KAR 16:080 | A&R | 103 KAR 5:070 | A&R |
| 103 KAR 16:090 | A&R | 103 KAR 5:090 | A&R |
| 103 KAR 17:030 | A&R | 103 KAR 5:110 | A&R |
| 103 KAR 17:040 | A&R | 103 KAR 5:130 | A&R |
| 103 KAR 17:070 | A&R | 103 KAR 5:140 | ARRS |
| 103 KAR 25:010 | A&R | 103 KAR 8:020 | A&R |
| 103 KAR 25:020 | A&R | 103 KAR 8:030 | A&R |
| 103 KAR 25:030 | A&R | 103 KAR 8:070 | A&R |
| 103 KAR 25:040 | A&R | 200 KAR 5:015 | State Government |
| 103 KAR 25:080 | A&R | 401 KAR 39:010 | ARRS & Ag&NR |
| 103 KAR 25:090 | A&R | 401 KAR 39:020 | ARRS & Ag&NR |
| 103 KAR 25:100 | A&R | 401 KAR 39:030 | ARRS & Ag&NR |
| 103 KAR 26:040 | A&R | 401 KAR 39:070 | ARRS & Ag&NR |
| 103 KAR 27:010 | A&R | 401 KAR 47:060 | ARRS & Ag&NR |
| 103 KAR 27:090 | A&R | 401 KAR 50:036 | ARRS & Ag&NR |
| 103 KAR 28:070 | A&R | 401 KAR 5:085 | ARRS & Ag&NR |
| 103 KAR 28:100 | A&R | 401 KAR 6:015 | ARRS & Ag&NR |
| 103 KAR 28:110 | A&R | 401 KAR 6:040 | ARRS & Ag&NR |
| 103 KAR 28:120 | A&R | 401 KAR 6:300 | ARRS & Ag&NR |
| 103 KAR 30:090 | A&R | 501 KAR 9:020 | ARRS |
| 103 KAR 30:130 | A&R | 600 KAR 1:050 | Transportation |
| 103 KAR 30:225 | A&R | 601 KAR 13:020 | ARRS & Transportation |
| 103 KAR 31:010 | A&R | 601 KAR 13:020 | Transportation |
| 103 KAR 31:060 | A&R | 601 KAR 1:035 | Transportation |
| 103 KAR 31:100 | A&R | 601 KAR 1:150 | ARRS |
| 103 KAR 31:110 | A&R | 702 KAR 6:070 | ARRS |
| 103 KAR 31:120 | A&R | 702 KAR 7:070 | ARRS |
| 103 KAR 31:140 | A&R | 704 KAR 3:355 | ARRS |
| 103 KAR 31:150 | A&R | 704 KAR 3:360 | ARRS |
| 103 KAR 35:030 | ARRS | 806 KAR 12:090 | ARRS |
| 103 KAR 35:030 | A&R | 806 KAR 12:130 | ARRS & Banking |
| 103 KAR 43:070 | A&R | 806 KAR 17:065 | ARRS |
| 103 KAR 43:080 | A&R | 815 KAR 30:050 | ARRS |
| 103 KAR 43:130 | A&R | 815 KAR 30:050 | Cities |
| 103 KAR 43:210 | A&R | 815 KAR 45:015 | ARRS |
| 103 KAR 43:230 | A&R | 815 KAR 45:070 | ARRS |
| 103 KAR 43:240 | A&R | 901 KAR 5:110 | ARRS & H&W |
| 103 KAR 43:250 | ARRS & A&R | 902 KAR 100:175 | H&W |
| 103 KAR 43:250 | A&R | 905 KAR 1:071 | ARRS |

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA - July 9, 1990
(Rm. 107, Capitol Annex @ 2 p.m.)

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

KHEAA Grant Program

- 11 KAR 5:030 & E. Student eligibility requirements.
- 11 KAR 5:130 & E. Student application.
- 11 KAR 5:140 & E. Award determination procedure.
- 11 KAR 5:160 & E. Disbursement procedures.
- 11 KAR 5:180. Records and reports.

Work Study Program

- 11 KAR 6:010 & E. KHEAA work study program.

Teacher Scholarship Program

- 11 KAR 8:010 & E. Teacher loan program.
- 11 KAR 8:020 & E. Deferment of teacher loans.
- 11 KAR 8:030 & E. Teacher scholarships.
- 11 KAR 8:040 & E. Deferment of teacher scholarship repayment.

College Access Program

- 11 KAR 11:010 & E. College access program grants: establishment and eligibility.
- 11 KAR 11:020 & E. Student application.
- 11 KAR 11:030 & E. Award determination procedure.
- 11 KAR 11:040 & E. Notification of award.
- 11 KAR 11:050 & E. Disbursement procedures.
- 11 KAR 11:060. Refund and repayment policy.
- 11 KAR 11:070. Records and reports.

REVENUE CABINET

Department of Administrative Services

Income Tax; Withholding

- 103 KAR 18:110 & E. Withholding methods.

GENERAL GOVERNMENT CABINET

Board of Pharmacy

- 201 KAR 2:074. Pharmacy services in hospitals. (Deferred from April Meeting)

TOURISM CABINET

Department of Fish & Wildlife Resources

Game

- 301 KAR 2:111. Deer and turkey hunting on special areas.
- 301 KAR 2:170. Seasons for deer hunting. (Amended After Hearing)

GENERAL GOVERNMENT CABINET

Department of Agriculture

Referendums

- 302 KAR 1:020. Burley tobacco.

CORRECTIONS CABINET

Office of the Secretary

- 501 KAR 6:030. Kentucky State Reformatory.
- 501 KAR 6:060. Northpoint Training Center.
- 501 KAR 6:110. Roederer Farm Center.
- 501 KAR 6:130. Western Kentucky Farm Center.
- 501 KAR 6:150 & E. Eastern Kentucky Correctional Complex.

TRANSPORTATION CABINET

Property Acquisition and Uniform Relocation

- 600 KAR 3:010. Relocation assistance payments of the Transportation Cabinet.
- Department of Vehicle Regulation
Motor Vehicle Enforcement

Division of Motor Carriers

- 601 KAR 1:005. Safety regulations.

Division of Driver Licensing

Driver Improvement

- 601 KAR 13:025. Point system. (Repeals 601 KAR 13:020)

EDUCATION AND HUMANITIES CABINET

State Board for Elementary and Secondary Education
Office of Administration and Finance

School Terms, Attendance and Operation

- 702 KAR 7:070. Interscholastic athletic eligibility and requirements; redshirting prohibited.

State Board for Adult, Vocational Education and Vocational Rehabilitation
Office of Vocational Education

Instructional Programs

705 KAR 4:010. General standards. (Deferred from June meeting)

State Board for Elementary and Secondary Education

Office of Education for Exceptional Children

Exceptional and handicapped programs

707 KAR 1:015. Policies and procedures related to the use of education of the handicapped act (EHA) part B funds. (Repeals 707 KAR 1:003)

State Board for Adult, Vocational Education and Vocational Rehabilitation
Office of Programs

Adult Education

709 KAR 1:011. Repeal of 709 KAR 1:010. (Deferred from June meeting)

709 KAR 1:020. Testing program. (Deferred from June meeting)

709 KAR 1:030. High school equivalency certificate. (Deferred from June meeting)

709 KAR 1:060. Standard for academic progress for post secondary and adult students. (Deferred from June meeting)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

TENTATIVE AGENDA - July 10, 1990

(Rm. 107, Capitol Annex @ 10 a.m.)

LABOR CABINET

Department of Workplace Standards

Occupational Safety and Health

803 KAR 2:320. Adoption of 29 CFR Part 1910.1000 - 1910.1500.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Financial Institutions

Division of Banking

Administration

808 KAR 1:070. Application and hearing procedure.

808 KAR 1:110. Investment of bank funds.

808 KAR 1:120. Loans secured by government obligations.

Division of Thrift Institutions

Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:020. Claims of exemption.

State Racing Commission

Thoroughbred Racing Rules

810 KAR 1:003. Licensing.

810 KAR 1:006. Racing associations.

Department of Housing, Buildings and Construction

Office of State Fire Marshal

Standards of Safety

815 KAR 10:040. Fire Prevention Code. (Repeals 815 KAR 10:020)

Boilers and Pressure Vessels

815 KAR 15:020. Administrative procedures; requirements.

Plumbing

815 KAR 20:010. Definitions.

815 KAR 20:071. Storage and installation of schedule 40, ABS and PVC plastic pipe and fittings.

815 KAR 20:076. Installation recommendations for polybutylene (PB) cold water building supply, yard piping and tubing.

815 KAR 20:120. Water supply and distribution.

815 KAR 20:130. House sewers and storm water piping; methods of installation.

CABINET FOR HUMAN RESOURCES

Department for Health Services

Division of Maternal and Child Health

Metabolic Screening Program

Maternal and Child Health

902 KAR 4:030. Tests for inborn errors of metabolism.

Division of Local Health

Sanitation

902 KAR 10:021 & E. License fees for frozen food locker plants.

902 KAR 10:030 & E. Sanitarians.

902 KAR 10:060 & E. Onsite sewage disposal.

902 KAR 10:121 & E. Inspection fees for public swimming & bathing facilities.

902 KAR 10:130 & E. Licensing fee for septic tank servicing.

Emergency Medical Technicians

902 KAR 13:030 & E. Fees. Unemployment Insurance

State Health Plan

902 KAR 17:020 & E. State health plan process. (Not Amended After Hearing) (Deferred from June meeting)

Health Services and Facilities

902 KAR 20:026. Operations and services; skilled nursing facilities. (Amended After Hearing)

902 KAR 20:048. Operation and services; nursing homes. (Amended After Hearing)

902 KAR 20:051. Operation and services; intermediate care. (Amended After Hearing)

902 KAR 20:086. Operation and services; intermediate care facilities for the mentally retarded and developmentally disabled. (Amended After Hearing)

Food and Cosmetics

902 KAR 45:110 & E. Inspection fees; permit fees; food plants, markets, warehouses, and distributors, vending machine companies and machines.

902 KAR 45:120 & E. Inspection fees; permit fees; food service establishments, hotels, mobile home and recreational vehicle parks.

**Department for Social Insurance
Division of Management & Development**

Food Stamp Program

904 KAR 3:020. Eligibility requirements.

**Department for Mental Health and Mental Retardation Services
Division of Administration and Financial Management**

Institutional Care

908 KAR 3:120. Policies and procedures of Western State Hospital.

ADMINISTRATIVE REGULATION REVIEW PROCEDURE

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing information, tiering statement, regulatory impact analysis, fiscal note, and the federal mandate comparison. Those administrative regulations received by the deadline required in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing

The administrative body shall schedule a public hearing on proposed administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

Any person interested in attending the scheduled hearing must submit written notification of such to the administrative body at least five (5) days before the scheduled hearing. If no written notice is received at least five (5) days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler of the cancellation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

Review Procedure

If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting following publication. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or thirty (30) days after being referred by LRC, whichever occurs first.

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

(NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.)

STATEMENT OF EMERGENCY
11 KAR 5:030E

This emergency amendment to the administrative regulation restricts eligibility for State Student Incentive Grants to students who are enrolled as juniors or seniors in eligible educational institutions. The restriction imposed by the amendment is designed to conform eligibility for the State Student Incentive Grant program to complement eligibility of freshmen and sophomores under the College Access Program (CAP) authorized by House Bill 799. An emergency exists in changing the State Student Incentive Grant eligibility, because applications must be submitted and award determinations made prior to July 1, 1990 to assure uninterrupted availability of student financial aid funds by the beginning of the fall, 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:030E. Student eligibility requirements.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

STATUTORY AUTHORITY: KRS 13A.100, 164.748(4)

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation sets forth eligibility requirements for KHEAA Grant programs. This amendment restricts state student incentive grant eligibility to juniors and seniors to complement eligibility of freshmen and sophomores under the newly established college access program. This amendment also deletes a section pertaining to repayment of overawards which is redundant of a section contained in 11 KAR 5:170. [This amendment is intended to replace the requirements contained in the KHEAA Grant Manual with specific regulations.]

Section 1. Definitions. The terms "authority", "business school", "college", "federal act", "grant", "school of nursing", and "vocational school" shall have the meanings defined in KRS 164.740. For purposes of this regulation, the terms listed below shall have the following meanings:

(1) "Academic year" means a period of time, usually eight (8) or nine (9) months, during which a full-time student would normally be expected to complete the equivalent of two (2) semesters, two (2) trimesters, three (3) quarters, 900 clock hours, twenty-four (24) semester hours, or thirty-six (36) quarter hours of instruction.

(2) "Educational expenses" means tuition and fees, books and supplies, room and board or reasonable living expenses, reasonable miscellaneous personal expenses, and reasonable transportation costs for the academic period of the grant application.

(3) "Educational institution" means a participating institution located in Kentucky which:

(a) Offers an eligible course of study;

(b) Enrolls as regular students only persons having either a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance in the Commonwealth of Kentucky and have the ability to benefit from the training offered by the institution;

(c) Has entered into an administrative agreement with the authority; and

(d) For purposes of the State Student Incentive Grant Program a business school, college, school of nursing or vocational school, as defined in KRS 164.740(3), (4), (17), and (18), respectively and meets the requirements of the federal act; or

(e) For purposes of the Kentucky Tuition Grant Program, a private, nonprofit college accredited by the Southern Association of Colleges and Schools, Commission on Colleges, and whose institutional programs are not comprised solely of sectarian instruction.

(4) "Eligible course of study" means a program offered by an educational institution which:

(a) Is of at least two (2) academic years duration; and

(b) Leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled.

(5) "Full-time student" means a student who is carrying a full-time academic workload, other than by correspondence, measured in terms of:

(a) Course work or other required activities as determined by the institution in which the student is enrolled, including any combination of courses, work experience, research or special studies which the institution requires of the student to consider him as being engaged in full-time study, and which amounts to the equivalent of a minimum of twelve (12) semester hours or twelve (12) quarter hours per academic term for institutions utilizing trimesters, semesters or quarter hour systems or which consists of a program requiring the minimum of twenty-five (25) clock hours per week for those institutions that do not utilize such systems; and

(b) The tuition and fees customary for full-time study at that institution.

(6) "Pell grant" means an award under the Pell Grant Program operated by the United States Government under the provision of 20 U.S.C. 1070a.

(7) "Resident of Kentucky or resident" means a person who is classified as an in-state student in accordance with criteria set forth in the "Residency Classification Policy" at 13 KAR 2:040, as adopted and from time to time amended by the Council on Higher Education.

Section 2. Eligibility of Students. In order to qualify for disbursement of a KHEAA grant, a student shall:

(1) Be a resident of the Commonwealth of Kentucky;

(2) Be enrolled as a full-time student in an eligible course of study;

(3) Be enrolled in an undergraduate program at an educational institution and not have previously earned a first baccalaureate or professional degree;

(4) Be determined by the authority, in accordance with procedures delineated in 11 KAR 5:120 through 11 KAR 5:140, to have established financial need for the KHEAA grant program assistance;

(5) Have remaining eligibility.

(a) A student shall be limited to a maximum of two (2) semesters of state student incentive grant eligibility for each of his or her junior and senior years.

(b) For purposes of Kentucky Tuition Grant eligibility, a student enrolled in a two (2) year institution shall be limited to four (4) semesters [or six (6) quarters] of grant eligibility. A student enrolled in a four (4) year institution shall be limited to eight (8) semesters [or twelve (12) quarters] of KHEAA grant program eligibility.

(c) An exception to the limits imposed in paragraphs (a) and (b) of this subsection may be granted by the executive director of the authority if the bachelor's program leads to a first degree and is designed to be completed in a ten (10) semester period, in which case the eligibility may be extended for cause by the executive director for two (2) additional [to ten (10)] semesters. A student enrolled in an eligible course of study of a duration not otherwise covered by this regulation shall have the same number of semesters [or quarters] of KHEAA grant program eligibility as are normally required for a full-time student to complete that eligible course of study;

(6) Not receive financial assistance to meet educational expenses in excess of need;

(7) Maintain satisfactory progress in an eligible course of study according to the published standards and practices of the educational institution at which the student is enrolled; and

(8) Satisfy all financial obligations to the authority and to any educational institution. Ineligibility under this subsection may be waived for cause by the executive director of the authority;

(9) Be a citizen of the United States or an eligible noncitizen. For purposes of this section, an eligible noncitizen shall mean an individual who is either:

(a) A U.S. national;

(b) A U.S. permanent resident with an Alien Registration Receipt Card (I-151 or I-551);

(c) A person with a Departure Record (I-94) from the U.S. Immigration and Naturalization Service showing any one of the following designations:

1. "Refugee;"

2. "Asylum granted;"

3. "Indefinite parole" and/or "humanitarian parole;"

4. "Cuban-Haitian entrant."

Students who are in the U.S. on an F1 or F2 student visa only or a J1 or J2 exchange visitor visa only or a G series visa only are not

eligible for KHEAA grant assistance;

(10) Meet the federal selective service registration compliance requirement if receiving State Student Incentive Grant funds. Those receiving Kentucky Tuition Grant (KTG) funds only do not have to meet this requirement; and

(11) Be receiving full-time credit at an educational institution in an eligible course of study and paying full-time tuition and fees to that institution, if the student is studying abroad or off campus.

(12) For purposes of state student incentive grant eligibility only, be enrolled as a junior or a senior as determined by the educational institution.

Section 3. A KHEAA grant recipient, who, on the basis of information submitted on the KHEAA grant application, is potentially eligible for a Pell grant must apply for the Pell grant prior to disbursement of the spring semester portion of the KHEAA grant. Recipients subject to this regulation will be notified by the authority in advance of cancellation of the undisbursed portion of the KHEAA grant. If within a reasonable time following such notification the student fails to provide documentation of filing for a Pell grant, the undisbursed portion of the KHEAA grant shall be cancelled.

[Section 4. (1) A student who fails to enroll, withdraws or changes enrollment status may owe a repayment of cash disbursements made to the student for educationally related expenses. If the student received financial aid, a portion of the repayment is due to the financial aid programs.]

[(2) The amount of the repayment shall be determined in accordance with the institution's refund and/or repayment policies relative to financial aid funds. If, however, a KHEAA grant recipient officially or unofficially withdraws from an institution before the first day of classes of the award period, or the student's enrollment is terminated with no assessment of tuition and fees by the institution, then the award shall be deemed an overaward and a full refund or repayment of the KHEAA grant shall be required, notwithstanding any institutional policy to the contrary.]

[(3) If, under the institution's financial aid repayment policy or this regulation, the student owes a repayment, the KHEAA grant or a portion thereof must be repaid to the authority by the student. The institution must calculate the amount of repayment due to the authority and notify the student and the authority in a timely fashion regarding the amount due to the authority.]

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY

11 KAR 5:130E

This emergency amendment updates the required application form for State Student Grants. It is imperative that this regulation become effective immediately to allow adequate time for submission and processing of applications to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the

fall, 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:130E. Student application.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

STATUTORY AUTHORITY: KRS 13A.100, 164.748(4)

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation prescribes the form to be used by students to apply for and establish financial need for KHEAA grant programs. This amendment is necessary to reflect the updated designation of an application form for state grants.

Section 1. Definitions. The terms "authority", "business school", "college", "federal act", "grant", "school of nursing", and "vocational school" shall have the meanings defined in KRS 164.740. For purposes of this regulation, the terms listed below shall have the following meanings:

- (1) "Educational institution" means an institution located in Kentucky which:
 - (a) Offers an eligible course of study;
 - (b) Enrolls as regular students only persons having either a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance in the Commonwealth of Kentucky and have the ability to benefit from the training offered by the institution;
 - (c) Has entered into an administrative agreement with the authority; and
 - (d) For purposes of the State Student Incentive Grant Program, a business school, college, school of nursing or vocational school, as defined in KRS 164.740(3), (4), (17), and (18) respectively and meets the requirements of the federal act; or

(e) For purposes of the Kentucky Tuition Grant Program, a private, nonprofit college accredited by the Southern Association of Colleges and Schools, Commission on Colleges, and whose institutional programs are not comprised solely of sectarian instruction.

(2) "Eligible course of study" means a program offered by an educational institution which:

- (a) Is of at least two (2) academic years duration; and
- (b) Leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled.

Section 2. In order to receive KHEAA grant program benefits for the 1990-91 [1989-90] academic year, the 1990-91 [1989-90] Kentucky Financial Aid Form shall be completed and submitted in accordance with the instructions provided by the authority. The application and instructions[, herein incorporated by

reference,] are available from the authority at its office at 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky. An applicant shall indicate the choice of an educational institution on the application to be considered for the KHEAA grant. The educational institution listed first shall be used in the determination of a KHEAA grant program award.

Section 3. If the student provides written notification of change of first choice educational institution, on or before August 1, or December 1 [July 15 or November 15], prior to the commencement of the respective fall or spring semester for which a KHEAA grant is sought, grant program eligibility shall be redetermined and award determination shall be recomputed by the authority based upon the new choice of educational institution. If the student changes his/her choice of educational institution after August 1 [July 15], any KHEAA grant award for the succeeding fall academic term shall be revoked, and grant program eligibility shall be recomputed for the spring academic term. If the student changes his/her choice of educational institution after December 1 [November 15], any KHEAA grant award for the succeeding spring term shall be revoked.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY

11 KAR 5:140E

This emergency amendment to the administrative regulation increases the maximum awards under the State Student Incentive Grant program. An emergency exists necessitating the immediate implementation of this change, because applications must be submitted and processed and award determinations made during the spring to allow adequate notification of awards and to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the fall, 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor

WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:140E. Award determination procedure.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

STATUTORY AUTHORITY: KRS 13A.100, 164.748(4)

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation sets forth the award determination procedures for the KHEAA Grant programs. This amendment is necessary to change the maximum state grant award.

Section 1. Definitions. The terms "authority" and "grant" shall have the meanings defined in

KRS 164.740. For purposes of this regulation, the terms listed below shall have the following meanings:

(1) "Academic year" means a period of time, usually eight (8) or nine (9) months, during which a full-time student would normally be expected to complete the equivalent of two (2) semesters, two (2) trimesters, three (3) quarters, 900 clock hours, twenty-four (24) semester hours, or thirty-six (36) quarter hours of instruction.

(2) "Application date" means the date that the application is processed by the College Scholarship Service.

(3) "CAP grant" means an award by the authority under the college access program administered pursuant to 11 KAR 11:010, et seq.

(4) [(3)] "Educational expenses" means tuition and fees, books and supplies, room and board or reasonable living expenses, reasonable miscellaneous personal expenses and reasonable transportation costs for the academic period of the grant application.

(5) [(4)] "Educational institution" means a participating institution located in Kentucky which:

(a) Offers an eligible course of study;

(b) Enrolls as regular students only persons having either a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance in the Commonwealth of Kentucky and have the ability to benefit from the training offered by the institution;

(c) Has entered into an administrative agreement with the authority; and

(d) For purposes of the State Student Incentive Grant Program, a business school, college, school of nursing or vocational school, as defined in KRS 164.740(3), (4), (17), and (18) respectively and meets the requirements of the federal act; or

(e) For purposes of the Kentucky Tuition Grant Program, a private, nonprofit college accredited by the Southern Association of Colleges and Schools, Commission on Colleges, and whose institutional programs are not comprised solely of sectarian instruction.

(6) [(5)] "Eligible course of study" means a program offered by an educational institution which:

(a) Is of at least two (2) academic years duration; and

(b) Leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled.

(7) [(6)] "Full-time student" means a student who is carrying a full-time academic workload, other than by correspondence, measured in terms of:

(a) Course work or other required activities as determined by the institution in which the student is enrolled, including any combination of courses, work experience, research or special studies which the institution requires of the student to consider him as being engaged in full-time study, and which amounts to the equivalent of a minimum of twelve (12) semester hours or twelve (12) quarter hours per academic term for institutions utilizing trimesters, semesters or quarter hour systems or which consists of a program requiring the minimum of twenty-five (25) clock hours per week for those institutions that do not utilize such systems;

and

(b) The tuition and fees customary for full-time study at that institution.

(8) [(7)] "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the authority's on-campus agent to certify all institutional transactions and activities with respect to the KHEAA grant programs.

(9) [(8)] "Overaward" means provision through any and all sources of financial assistance to meet educational expenses in excess of a student's need.

(10) [(9)] "Pell grant" means an award under the Pell Grant Program operated by the United States Government under the provision of 20 U.S.C. 1070a.

(11) [(10)] "Total cost of education 'or' (TCE)" for an academic year means an amount determined for each applicant by the following formula: normal tuition and fees for a full-time student at the institution chosen by the applicant plus maximum board contract amount plus minimum room contract amount. [For institutions which do not have room and board charges, a maintenance allowance of \$1,100 for the year or \$550 for a semester or such other allowances as may be agreed to between the authority and any educational institution will be allowed.]

Section 2. State Student Incentive Grant (SSIG) Program Awards. Each application shall be reviewed for determination that all eligibility requirements set forth in 11 KAR 5:030 for SSIG are met. To qualify for an SSIG award based on financial need, the applicant's family contribution using Congressional methodology, prescribed in Title IV, Part F of the federal act (20 U.S.C. §1087kk through §1087vv) shall be \$2,000 or less. SSIG awards shall be offered, [in ascending order] based on the application date, until funds are depleted [to the extent that funds are available].

Section 3. Kentucky Tuition Grant (KTG) Program Awards. Whether or not the applicant is eligible for an SSIG award, the application shall be reviewed for determination of eligibility for a KTG.

Section 4. KTG Need. For each KTG eligible applicant, the KTG need shall be computed according to the following formula: KTG need equals total cost of education minus the sum of:

- (1) Expected Pell grant;
- (2) Congressional methodology family contribution; and
- (3) CAP grant or SSIG.

Section 5. KTG Award. (1) If an applicant does not qualify for a CAP grant or SSIG award, and the KTG need is an amount equal to or greater than \$200, the KTG shall be the lesser of the KTG need or the maximum grant authorized by KRS 164.785(3), except that KTG awards shall be offered only to the extent funds are available.

(2) If an applicant does not qualify for a CAP grant or SSIG award, and the KTG need is an amount less than \$200, no award shall be made.

(3) If an applicant has received a CAP or SSIG award and KTG need is an amount equal to or greater than fifty (50) dollars, the KTG award shall be the lesser of the KTG need or the

maximum grant established by the authority pursuant to KRS 164.785(3), except that KTG awards shall be offered only to the extent that funds are available.

Section 6. Minimum KHEAA Grant. The minimum KHEAA grant awarded to any recipient for a given academic year shall be \$200.

Section 7. SSIG and KTG shall be awarded as a KHEAA grant.

Section 8. The combination of a CAP grant and a KHEAA grant shall not exceed the cost of tuition and fees charged to the student during the academic year of the award. A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books. An SSIG shall not exceed \$640 for an academic year and \$320 for a semester [500]. A KTG shall not exceed \$1,200 for an academic year. A semester award shall not exceed tuition and fee charges for that semester. No KHEAA grant award shall be made for a summer academic term.

Section 9. The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the educational institution's determination of financial need for that student. The KHEAA grant program officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

Section 10. If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked. If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 11. If the authority receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant and the grant has not yet been disbursed, the reduction shall be made to both the fall and spring disbursements, and the student shall be notified of the reduction. If the grant for the fall academic term has already been disbursed, then the reduction shall be made to the spring disbursement. If both the fall and spring disbursements have been made, the student shall be notified that he or she must repay the overaward to the authority.

Section 12. Students requested, by the institution, to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant. Any student who is awarded a KHEAA grant who fails to provide verification requested by the educational institution shall be deemed ineligible, and the grant shall be revoked.

WAYNE STRATTON, Chairman
APPROVED BY AGENCY: May 15, 1990
FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY 11 KAR 5:160E

This emergency amendment to the administrative regulation changes the disbursement process for state student grants. The amendment is intended to simplify the disbursement process and reduce administrative burden. It is imperative that this regulation become effective immediately to assure implementation of the disbursement process prior to the commencement of the fall academic term in August, 1990. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:160E. Disbursement procedures.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

STATUTORY AUTHORITY: KRS 13A.100, 164.748(4)

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation sets forth the disbursement procedures for KHEAA grant programs. This amendment is necessary to change the disbursement procedure to consist of a transfer of funds to the institution on behalf of all student grant recipients and reduce the number of registers to be completed by the institution.

Section 1. Definitions. The terms "authority", "business school", "college", "federal act", "grant", "school of nursing", and "vocational school" shall have the meanings defined in KRS 164.740. For purposes of this regulation, the terms listed below shall have the following meanings:

(1) "Educational institution" means an institution located in Kentucky which:

(a) Offers an eligible course of study;

(b) Enrolls as regular students only persons having either a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance in the Commonwealth of Kentucky and have the ability to benefit from the training offered by the institution;

(c) Has entered into an administrative agreement with the authority; and

(d) For purposes of the State Student Incentive Grant Program, a business school, college, school of nursing or vocational school, as defined in KRS 164.740(3), (4), (17), and (18) respectively and meets the requirements of the federal act; or

(e) For purposes of the Kentucky Tuition Grant Program, a private, nonprofit college accredited by the Southern Association of Colleges and

Schools, Commission on Colleges, and whose institutional programs are not comprised solely of sectarian instruction.

(2) "Eligible course of study" means a program offered by an educational institution which:

(a) Is of at least two (2) academic years duration; and

(b) Leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled.

(3) "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the authority's on-campus agent to certify all institutional transactions and activities with respect to the KHEAA grant programs.

Section 2. Eligibility Verification. (1) The KHEAA grant program eligibility verification roster will be forwarded to the KGPO at each educational institution prior to the beginning of each semester.

(2) The KGPO shall certify the eligibility of KHEAA grant recipients according to instructions attached to the roster and return it to the authority not later than three (3) weeks after the last date for students to enroll for that semester [at least three (3) weeks prior to the date on which receipt of the KHEAA grant checks is requested].

Section 3. Disbursement of Funds. [Checks, Check Register.] (1) The authority shall transfer funds to the KGPO at the time the eligibility verification roster is transmitted. Upon receipt of the properly certified eligibility verification roster, the authority will transfer additional funds, if necessary, [issue] to the KGPO [individual checks made payable to each award recipient].

(2) [The checks shall be accompanied by two (2) copies of a KHEAA grant check register, one (1) copy of which shall be retained by the institution and the other shall be returned to the authority in accordance with instructions attached thereto.] The instructions accompanying the eligibility verification roster shall [will] specify:

(a) Conditions under which a KHEAA grant [check] shall be disbursed to the benefit of the KHEAA grant recipient;

(b) Conditions under which KHEAA grant funds [a check] shall be returned to the authority; and

(c) The date on which the roster [register] and any undisbursed funds [checks] shall be returned to the authority.

(3) An institution which has not returned an eligibility verification roster [a previous check register] or completed it according to instructions shall not receive [another check register and] additional KHEAA grant funds [checks] until it has satisfied the requirements in subsection (2) of this section.

Section 4. Alternative Disbursement. In lieu of the processes respecting the disbursement of KHEAA grant funds [checks] pursuant to Section 2 of this regulation, the authority, in its sole discretion, may enter agreements on such terms as the authority deems appropriate to provide alternative methods for economical and efficient disbursement of KHEAA grants.

Section 5. If the student submits to the authority a written request that is received by the authority not later than August 1 [July 15] preceding the fall academic term for which a KTG is awarded, the entire amount of the KTG, up to the amount of tuition and fees charged for the fall academic term, may be disbursed for that academic term. Otherwise, a KTG shall be disbursed in the amount of one-half (1/2) for the fall academic term and one-half (1/2) for the spring academic term. An SSIG shall always be disbursed in the amount of one-half (1/2) for the fall academic term and one-half (1/2) for the spring academic term.

Section 6. KHEAA grants shall be disbursed to eligible students enrolled at an educational institution using the quarter system so that the first disbursement shall be in the fall quarter beginning in August, September, or October, and the second disbursement shall be in the winter quarter beginning in January, February, or March. Enrollment during a spring quarter beginning in April or later shall not qualify a student for KHEAA grant assistance.

Section 7. KHEAA grants shall be disbursed to eligible students enrolled at an educational institution using a short winter term in combination with longer fall and winter terms so that the first disbursement shall be in the fall academic term and the second disbursement shall be in the spring academic term. Enrollment during the shorter winter academic term shall not qualify a student for KHEAA grant assistance.

Section 8. The educational institution shall be responsible for proper disbursement of KHEAA grants. The institution shall be liable for disbursement to the wrong individual or to an ineligible student, and shall make restitution to the authority of any amount improperly disbursed. Failure of the institution to make restitution when required shall, without precluding other remedies, be deemed cause for [may result in] limitation, suspension or termination of the participation of the institution in accordance with 11 KAR 4:020.

Section 9. Undisbursed KHEAA grant funds [checks] shall be returned to the authority [without any alteration, except an endorsement of "for deposit to State Treasury only"].

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY 11 KAR 6:010E

This emergency amendment to the administrative regulation replaces the requirements previously contained in an outdated procedures manual. The prior program requirements became obsolete when the program was not funded during the last biennium. An emergency exists necessitating the immediate implementation of this regulation, because applications must be submitted, agreements executed, and awards made as soon as possible to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the fall, 1990 semester. This emergency regulation shall be replaced by an

ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 6:010E. Commonwealth Work Study Program.

RELATES TO: KRS 164.744(2), 164.748(4), 164.753(6)

STATUTORY AUTHORITY: KRS 13A.100, 13A.110, 164.748(4)

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority ("Authority") is empowered to administer student financial assistance programs in the form of work-study. The purpose of this regulation is to name the authority's program, and set forth the procedures under which it will be administered. The purpose of this amendment is to replace requirements formerly contained in the Commonwealth Work Study Program Manual of Procedures and Guidelines with specific regulatory requirements and rename the program.

Section 1. Definitions. (1) "Alternate work plan" means a work-study arrangement in which a participating student alternates a school term with a work term. For example, a participating student attends school full time one (1) term, works full time the next term, and returns to school full time the following term. Participating students employed during the summer who are not enrolled at least half time during that term shall be considered alternate for the summer term. Any academic credits earned as a direct result of the KWSP employment shall not be considered in the determination of alternate status.

(2) "Career-related work experience" means a job which has a correlation with the participating student's career direction determined by the participating institution and evidenced by the student's major course of study.

(3) "Cost of education" means those expenses commonly related to obtaining an education at the participating institution plus those costs directly related to the participating student's KWSP work experience, including any required dues and travel (at the rate of twenty-two (22) cents per mile) from the school to the place of employment or, under an alternate work plan, from the student's residence to the place of employment.

(4) "Eligible program of study" means a program not leading to a certificate, diploma, or degree in theology, divinity, or religious education.

(5) "Financial need" means the total cost of education less financial assistance received from all sources, other than KWSP employment, including grants, loans, and scholarships.

(6) "Full-time enrollment" means the number of credit hours determined by the participating institution to constitute full-time enrollment, which is generally twelve (12) semester hours, twenty-four (24) clock hours, or six (6) summer school hours. Any academic credits earned as a direct result of KWSP employment shall not be considered in the determination of full-time

status.

(7) "Prevailing wage rate" means a base rate of pay per hour for KWSP participating students who are or would be performing equal job tasks as other employees, plus benefits paid to other employees having the same status as the KWSP employee.

(8) "School term" means the equivalent of one (1) semester, one (1) quarter, or one (1) summer school term.

(9) "Wage reimbursement" means a payment made to participating employers by participating institutions as reimbursement for wages paid participating students. The rate of reimbursement shall be specified in an agreement between the participating employer and the participating institution.

Section 2. [1.] There is hereby established a program of student financial assistance known as the [Commonwealth] Work Study Program, which may be cited as the KWSP [KHEAA-CWSP or merely as CWSP].

Section 3. Institutional Eligibility. To participate in the KWSP, an educational institution shall:

(1) Be a college, business school, vocational school, or school of nursing, as defined in KRS 164.740, located within Kentucky;

(2) Offer an eligible program of study;

(3) Have in force an administrative agreement with the authority pursuant to 11 KAR 4:040;

(4) Submit a request for funding in accordance with instructions specified by the authority; and

(5) Execute any supplemental contractual arrangements with the authority and participating employers required to administer the KWSP.

Section 4. Employer Eligibility. To participate in the KWSP, an employer shall:

(1) Provide a bona fide career related work experience for participating students as determined by the participating institution in which the student is enrolled and submit a descriptive position analysis to the participating institution;

(2) Execute a KWSP employer agreement with each participating institution from which participating students are hired;

(3) Provide a Kentucky worksite for all participating students employed by the employer;

(4) Not be a postsecondary educational institution;

(5) Not be a business entity formed substantially for the purpose or intention of participating in the KWSP;

(6) Not utilize participating students in a work environment that is sectarian in nature or that involves any political activity.

Section 5. Student Eligibility. To participate in the KWSP, a student shall:

(1) Be a citizen of the United States;

(2) Be a Kentucky resident, as determined by the participating institution in accordance with 13 KAR 2:040;

(3) Be enrolled or accepted for enrollment on at least a half-time basis at a participating institution;

(4) Demonstrate financial need;

(5) Be in good standing and making satisfactory academic progress toward completion of his or her educational program, as determined

by the participating institution, and have a cumulative grade point average of not less than the equivalent of a "C" (inclusive of all postsecondary courses attempted for postsecondary students or secondary school grade point average for entering freshmen);

(6) Not be participating in other work programs administered by the participating institution;

(7) Not be enrolled in a major course of study in religion, theology, or divinity;

(8) Submit a KWSP application to the participating institution, properly completed in accordance with instructions, and be approved for participation by the participating institution;

(9) Not be in default on any financial obligation to the authority under any program administered by the authority pursuant to KRS 164.740 through 164.785, except that ineligibility for this reason may be waived by the executive director of the authority, at the recommendation of a designated staff review committee, for cause; and

(10) Execute any employment agreements required by the participating institution.

Section 6. Employer Responsibilities. To receive wage reimbursement a participating employer shall:

(1) Immediately notify the participating institution in writing if a participating student's employment is terminated, stating the reason for and effective date of termination;

(2) Report promptly to the participating institution all significant changes of the position analysis or the student's work assignment;

(3) Submit to the participating institution on a regular basis a certified, accurate proof of wages paid to participating students;

(4) Pay participating students the prevailing wage rate, which shall not be less than the federal minimum wage;

(5) Comply with all federal and state employment, safety and civil rights laws applicable to the positions filled;

(6) Not, without prior consent of the participating institution, permit or require participating students to work in excess of:

(a) Thirty (30) hours per week for students currently enrolled less than full time;

(b) Twenty (20) hours per week for students currently enrolled full time; and

(c) Forty (40) hours per week for students employed under an alternate work plan;

(7) Permit on-site inspection and review of records by representatives of the participating institution and the authority during normal business hours; and

(8) Ensure that regular employees are not displaced by KWSP participating students.

Section 7. Student Responsibilities. Participating students shall:

(1) Participate in all screening or preplacement activities required by the participating institution;

(2) Maintain eligibility pursuant to Section 5 of this regulation, and immediately notify the participating institution in writing of all changes that affect the student's continued eligibility;

(3) Be available for a job interview if requested by a participating employer; and

(4) Perform all reasonable employment obligations and comply with all reasonable policies and requirements of the participating employer.

Section 8. Appeals regarding student or employer participation shall be directed to the participating institution and shall be reviewed, settled or determined by an appeal committee consisting of no fewer than three (3) individuals. Appeals regarding institutional eligibility or participation shall be determined by the authority in accordance with 11 KAR 4:020.

Section 9. Forms and Agreements. All forms and agreements utilized in the administration of the KWSP shall be provided or approved by the authority. No alteration of any forms or agreements used in the administration of the KWSP shall be binding against the authority without the prior consent of the authority. The KWSP application is available to students at participating institutions or from the authority at 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky 40601.

[Section 2. The Commonwealth Work Study Program is operated under provisions of Kentucky Revised Statutes 164.740 to 164.765 and Title 11 of the Kentucky Administrative Regulations.]

[Section 3. Participants in the Commonwealth Work Study Program shall comply with procedures and requirements established by the Authority, delineated in the "Commonwealth Work Study Program Manual of Procedures and Guidelines, 1986-87 Edition" incorporated herein by reference. A current copy of this manual shall be maintained on file with the Legislative Research Commission. Copies of the manual may be obtained upon request to the Authority. Participating educational institutions shall maintain a current copy on file and, upon request, make a copy of the manual available for review by students and employers.]

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY

11 KAR 8:010E

This emergency amendment to the administrative regulation redesignates the existing program to avoid confusion with the new teacher scholarship program. An emergency exists necessitating immediate implementation of this amendment so that the redesignation will coincide with implementation of the new teacher scholarship program. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor

WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 8:010E. Teacher loan [scholarship] program.

RELATES TO: KRS 164.770 [156.613]
STATUTORY AUTHORITY: KRS [156.613,]
164.748(4), 164.770

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: KRS 164.770 [156.613] established the Teacher Loan [Scholarship] Program to encourage academically talented students to become teachers in the public schools of the Commonwealth. This regulation prescribes rules for the administration of the Teacher Loan [Scholarship] Program. 11 KAR 8:030 establishes a new program of teacher scholarships pursuant to House Bill 799 (1990 RS), Part I, F., 46... p. 52 and the corresponding budget memorandum. This amendment is necessary to rename the program established pursuant to KRS 164.770 to avoid confusion.

[Section 1. The Kentucky Higher Education Assistance Authority (authority) shall, to the extent of appropriations for such purpose, award teacher scholarships to persons enrolled or accepted for enrollment on a full-time basis at participating institutions of higher education, approved by the State Board of Education to offer teacher education programs, who declare an intention to enter the teaching profession in the public schools of the Commonwealth, and who meet the eligibility requirements set forth herein.]

Section 1. [2.] Definitions. (1) "Public school" means a common school operated under the laws of the Commonwealth of Kentucky.

(2) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a public school year or one-half (1/2) of a participating institution's academic year.

(3) "Qualified teaching service" means employment in a public school in a position requiring a Kentucky Teacher's Certificate for a major portion of a school day for at least seventy (70) days during a semester.

(4) "Participating institution" means an institution of higher education located in Kentucky, which is approved by the State Board of Education to offer teacher education programs, and which has in force an agreement with the authority providing for administration of this program.

Section 2. The Kentucky Higher Education Assistance Authority (authority) shall, to the extent of appropriations for such purpose, award teacher loans to persons enrolled or accepted for enrollment on a full-time basis at participating institutions of higher education, approved by the State Board of Education to offer teacher education programs, who declare an intention to enter the teaching profession in the public schools of the Commonwealth, and who meet the eligibility requirements set forth herein.

Section 3. Eligibility Criteria. Graduates of a high school, located in Kentucky, who rank academically in the top ten (10) percent of their graduating class, or who score at or above the 80th percentile on a test required for

admission to the Commonwealth's public institutions of higher education, and who have not previously received a baccalaureate degree, shall be eligible to apply for a teacher loan [scholarship]. An individual who owes repayment of a grant or work-study award, or who is in default in repayment of any loan owed to the authority, is not eligible to receive a teacher loan [scholarship] until all such financial obligations to the authority are satisfied, provided, however, that ineligibility for this reason may be waived, at the recommendation of a designated staff review committee for cause.

Section 4. Selection Criteria. Recipient selection will be made on the basis of the following weighted criteria: rank in class (thirty (30) percent), grade point average (forty (40) percent), percentile score on the test required for admission to the Commonwealth's public institutions of higher education (thirty (30) percent). (Test scores of applicants from minority population groups will be measured relative to the scores of such minority population groups.) If funds are insufficient to award all applicants, the loans [scholarships] shall first be awarded to those qualifying applicants who previously received scholarships. If funds are insufficient to award all prior recipients who are qualified applicants, then loans [scholarships] shall be prorated in accordance with the cumulative amount previously received by such applicants. If funds are sufficient to award new applicants, an award shall be made first to the applicant with the highest score on the selection criteria and, thereafter, in a descending order to persons having lower scores until all available funds are awarded. Once all the criteria have been evaluated and two (2) or more applicants are equally ranked, selection between the applicants will be made on the basis of the date the application is received by the authority.

Section 5. Renewal. Teacher loans [scholarships] shall be renewed annually upon application for a maximum of three (3) years of undergraduate study for those who maintain at least the equivalent of a 2.5 cumulative grade point average on a scale of 4.0 and provided that the recipient, when first eligible, enrolls in a teacher education program and, thereafter, continues to be enrolled on a full-time basis in such a program. Awards for summer school attendance shall be made upon separate application.

Section 6. Award Maximums. The maximum teacher loan [scholarship] award for a summer session shall be \$1,250; for a semester shall be \$2,500; or, for an academic year (exclusive of a summer session) shall be \$5,000. The aggregate maximum of teacher loan [scholarship] awards shall not exceed \$20,000 per individual. Awards shall not exceed the student's total cost of attendance as determined by the participating institution.

Section 7. Disbursements. Disbursement of teacher loans [scholarships] shall be made at the beginning of each semester or summer session and each such disbursement shall be evidenced by a promissory note, prescribed by the authority, in which the loan [scholarship] recipient shall agree to repay the loan [scholarship] funds or

render qualified teaching service in lieu thereof.

Section 8. Notifications. Recipients shall notify the authority within thirty (30) days of:

- (1) Change in enrollment status;
- (2) Cessation of enrollment in a teacher education program;
- (3) Employment in a qualified teaching service position; or,
- (4) Change of address.

Section 9. Withdrawals. Loan [Scholarship] recipients who, prior to completion, cease to be enrolled on a full-time basis in a teacher education program at a participating institution, shall immediately become liable for the repayment to the authority of the sum of all teacher loan [scholarship] funds received plus interest accrued thereon unless such recipient has an approved deferment pursuant to 11 KAR 8:020.

Section 10. Repayment. Recipients who do not begin employment in a qualified teaching service position within the six (6) month period following completion of a teacher education program in a participating institution (excluding periods of deferment pursuant to 11 KAR 8:020) shall immediately become liable to the authority for repayment of principal and interest accrued, pursuant to the earliest promissory note then outstanding. In each semester thereafter, during which a recipient does not render qualified teaching service, repayment of an additional promissory note shall become due, proceeding sequentially from the promissory note having the earliest date to the most recent date.

Section 11. Repayment Schedule. Written notification of demand for repayment shall be sent by the authority to the loan [scholarship] recipient's last known address and shall be effective upon mailing. The authority may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the authority. In the event that more than one (1) promissory note has come due for repayment and remains unpaid, then payments shall first be applied to the earliest unpaid promissory note. Payments shall be applied first to accrued interest and then to principal.

Section 12. Cancellation. (1) In order to receive cancellation of a promissory note and the interest accrued thereon, a loan [scholarship] recipient must render qualified teaching service in a public school during a semester. One (1) such promissory note shall be cancelled for each semester during which qualified teaching service is verified to the authority. Such cancellations of promissory notes shall be in sequential order beginning with the earliest promissory note.

(2) In the event that a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, such teaching requirements shall not be fulfilled concurrently. Unless the authority determines otherwise for cause, loans or scholarships from more than one (1) program shall be repaid or cancelled by qualified teaching service in the

same order in which they were received.

(3) Verification of qualified teaching service shall be submitted to the authority in writing, signed by the local school district superintendent or building principal, within thirty (30) days of the date a scholarship recipient completes such qualified teaching service.

Section 13. Interest. The interest rate on loan [scholarship] funds shall be twelve (12) percent per annum simple interest. Interest accruing on the unpaid principal of each promissory note shall be computed from the date of disbursement of the respective promissory note, and such interest shall continue to accrue until the promissory note is paid in full pursuant to Section 11 of this regulation or cancelled in full pursuant to Section 12 of this regulation. In the event that the loan [scholarship] is not repaid or cancelled in accordance with the terms of the promissory note and related repayment schedules, if any, and judgment is rendered on the debt, then the annual interest rate shall, from the date of such judgment, not exceed four (4) percent in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District where the transaction is consummated or nineteen (19) percent, provided that it shall not be less than the face rate of the promissory note.

Section 14. Records. A participating institution shall maintain complete and accurate records pertaining to the eligibility, enrollment and progress of students receiving aid under this program and the disbursement of funds and institutional charges as may be necessary to audit the disposition of funds hereunder. Such records shall be maintained for at least five (5) years after the student ceases to be enrolled at the institution.

Section 15. Refunds. A participating institution shall refund to the authority, within forty (40) days of a recipient's last date of attendance, any amount attributable to this program which is determined to be due under the institution's refund policy.

Section 16. Information Dissemination and Recruitment. The authority shall disseminate information through high school counselors and school superintendents about this program to potential recipients. Participating institutions shall provide assurances that program information will be disseminated to freshmen and sophomores enrolled at that institution. Participating institutions shall actively recruit students from minority population groups for participation in this program.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
11 KAR 8:020E

This emergency amendment to the administrative regulation redesignates the existing program to avoid confusion with the new teacher scholarship program. An emergency exists necessitating

immediate implementation of this amendment so that the redesignation will coincide with implementation of the new teacher scholarship program. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 8:020E. Deferment of teacher loans.

RELATES TO: KRS 164.770 [156.613]
STATUTORY AUTHORITY: KRS [156.613,]
164.748(4), 164.770
EFFECTIVE: May 21, 1990
NECESSITY AND FUNCTION: KRS 164.770 [156.613]
establishes the Teacher Loan [Scholarship] Program and provides that the Kentucky Higher Education Assistance Authority (authority) may permit deferment of repayment for cause. This regulation defines "deferment" and establishes conditions under which specified types of deferments may be approved by the authority. 11 KAR 8:030 establishes a new program of teacher scholarships pursuant to House Bill 799 (1990 RS), Part I, F., 46, p. 52 and the corresponding budget memorandum. This amendment is necessary to rename the program established pursuant to KRS 164.770 to avoid confusion.

Section 1. Definitions. Unless otherwise specified, the words and phrases used herein shall have the same meaning as set forth in 11 KAR 8:010. "Deferment" means a temporary waiver of the obligation of a teacher loan [scholarship] recipient to make payments to the authority, pursuant to one or more promissory notes executed between the recipient and the authority, which is granted by the authority, for a specified period of time, upon a showing of cause by the recipient.

Section 2. Request for Deferment. The recipient must request a deferment in writing by submitting complete and accurate information on a form prescribed by the authority. The recipient's submission of a request for deferment shall constitute authorization for the authority to request and receive such verification of facts represented by the recipient as may be deemed necessary by the authority.

Section 3. Effect on Repayments. During a deferment, no principal or interest repayments shall be required but interest shall continue to accrue on the unpaid principal balance owed by the recipient. Nothing contained herein shall require the authority to grant a deferment if such deferment would legally impair the ultimate recovery of the principal and accrued interest otherwise owed by the recipient. If, during a deferment, the recipient resumes full-time enrollment in a teacher education program at a participating institution or renders qualified teaching service, then the deferment shall nullify the commencement of repayment, such that any promissory note so deferred may be subsequently cancelled in accordance with KRS 164.770 [156.613] and 11 KAR 8:010.

Section 4. Types of Deferments. The following deferments may be granted by the authority:

(1) Enrollment deferment. A deferment granted to a recipient who is enrolled on at least a half-time basis at a business school, college, vocational school or school of nursing (as those terms are defined in KRS 164.740) in the United States. The recipient must provide to the authority, at least annually, evidence of such enrollment on properly completed forms provided by the authority.

(2) Disability deferment. A deferment granted to a recipient who is temporarily totally disabled and, therefore, unable to obtain any full-time employment or to attend school; or, a deferment granted to a recipient who is unable to obtain any full-time employment or attend school due to the temporary total disability of the recipient's spouse who requires continuous (twenty-four (24) hour) nursing or similar care by the recipient. For purposes of this deferment, a recipient, or the spouse of a recipient, is temporarily totally disabled if he/she suffers an injury or illness which necessitates an extended or indefinite period of recovery which can be expected to preclude gainful employment or school attendance and, in the case of a recipient's spouse, he/she is not confined to a hospital, nursing home, intermediate care facility, or similar institution. The recipient must provide to the authority a statement from a licensed physician certifying that the recipient or spouse is temporarily totally disabled in accordance with the preceding terms and conditions. The recipient is solely responsible for securing the physician's certifications. This deferment may, at the authority's discretion, be granted for a period not to exceed three (3) years, subject to annual review of a physician's certification. After the third year of any deferment, pursuant to this subsection, the authority may, in its sole discretion, cancel the debt.

(3) Unemployment deferment.

(a) A recipient seeking, but unable to obtain, a qualified teaching service position within six (6) months following completion of a teacher education program at a participating institution may be granted a single deferment for a period not to exceed one (1) year. The recipient must have applied for a qualified teaching service position with at least three (3) public school districts and must not have refused an offer of employment in a qualified teaching service position in such public school districts or in any other public school districts to which the recipient may have applied, and must provide the authority a signed statement which sets forth:

1. The recipient's current address;

2. The names of public school districts to which the recipient has applied for qualified teaching service employment; and

3. The recipient's agreement to notify the authority when he/she obtains full-time employment in a qualified teaching service position; or

(b) A recipient seeking, but unable to obtain, any full-time (at least thirty (30) hours per week) employment may be granted a single deferment for a period not to exceed one (1) year. The recipient must provide, on the form prescribed by the authority, a signed statement which sets forth:

1. The recipient's current address;

2. Certification that the recipient has

registered with a public or private employment agency, if one is accessible, specifying the name and address of such agency; and

3. The borrower's agreement to notify the authority within thirty (30) days of a date upon which he/she obtains full-time employment.

If full-time employment is obtained at any time during the period of a deferment approved pursuant to this section, such deferment shall be immediately terminated.

(c) The immediately preceding subsections of this section are alternative ways to qualify for a single deferment for a period not to exceed one (1) year. Pursuant to paragraph (a) of this subsection, a recipient, who is seeking, but unable to obtain, a qualified teaching service position, may receive a deferment even if employed full-time in another type of position. Pursuant to paragraph (b) of this subsection, a recipient, who is not actively seeking a qualified teaching service position, may receive a deferment only if actively seeking and unable to obtain any type of full-time employment.

(4) Parenting deferment. A deferment may be granted by the authority when a recipient interrupts qualified teaching service or enrollment in a teacher education program at a participating institution under an approved leave of absence for purposes of rearing a preschool age child. The borrower must provide to the authority a statement, signed by an authorized representative of the public school district or participating institution, evidencing that such a leave of absence has been approved for the recipient. This deferment shall remain in effect during the period of the leave of absence not to exceed two (2) years. The recipient is solely responsible for securing, at least annually, the required verification of an approved leave of absence.

(5) Hardship deferment. If enrollment in a teacher education program or employment in a qualified teaching service position is temporarily interrupted due to circumstances beyond the recipient's control, including, but not limited to, illness, accident or death in the family, after which the recipient intends to resume such enrollment or qualified teaching service position, then the authority may determine that a hardship exists and may grant a single deferment of a period not in excess of one (1) year.

(6) Qualified teaching service deferment.

(a) Deferments may be granted, from time to time, to a recipient who, due to current employment in a qualified teaching service position, may reasonably be expected, solely with the passage of six (6) months or less time, to qualify for cancellation benefits pursuant to 11 KAR 8:010.

(b) In the event that a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, and the recipient is either:

1. Obligated to concurrently make cash payments on the teacher loan [scholarship] and another such program; or

2. Performing qualified teaching service to fulfill the requirement of another such program; then a deferment of repayment of the teacher loan [scholarship] may be granted during the period in which the recipient is making payments or performing qualified teaching service in

accordance with the requirements of the other program.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY

11 KAR 8:030E

This emergency administrative regulation implements a teacher scholarship program to provide improved benefits to new recipients as well as prior recipients of Math/Science Incentive loans (under KRS 164.768) and Teacher Scholarships (under KRS 164.770). The regulation is intended to provide a uniform system of benefits and effectively merge the existing programs through a process of refinancing existing loans. An emergency exists necessitating immediate implementation of this program to assure timely, uninterrupted delivery of student financial aid by the beginning of the fall, 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor

WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 8:030E. Teacher scholarships.

RELATES TO: KRS 164.744(2), 164.753(3)
STATUTORY AUTHORITY: KRS 164.748(4), 164.753(3), HB 799 (1990 RS), Part I, F., 46., p. 52

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: KRS 164.744(2) authorizes the authority to provide scholarships, and KRS 164.753(3) prescribes certain standards for scholarship programs. House Bill 799 appropriated funds for a new program of teacher scholarships. The General Assembly has expressed a desire, in a budget memorandum prepared under KRS 48.300(2) to accompany House Bill 799, that prior recipients of loans pursuant to KRS 156.611, 156.613, 164.768 and 164.770 should be eligible for benefits under this new program. This regulation delineates eligibility criteria and repayment obligations related to scholarships provided under the new program and establishes a capability for refinancing of prior loans.

Section 1. Definitions. As used in this regulation, the terms listed below shall have the following meanings:

(1) "Critical shortage area" means an understaffing of teachers for particular subjects, grade levels, or geographic locations as determined by the authority from any sources considered reliable, including, but not limited to, consultation with local and state school officials.

(2) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification or recertification, and which does not lead to a certificate, diploma, or degree in theology, divinity, or religious education.

(3) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a school, accredited by the Commonwealth, located in Kentucky.

(4) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year.

(5) "Participating institution" means an institution of higher education located in Kentucky, which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.

Section 2. Eligibility. (1) The authority may, to the extent of appropriations and other funds available to it for this purpose, award teacher scholarships to persons enrolled or accepted for enrollment at participating institutions, who declare an intention to enter the teaching profession in state accredited schools of the Commonwealth, and who are eligible under subsections (3) and (4) of this section.

(2) The authority shall, except for limitations imposed by subsection (5) of this section, cancel the repayment obligation of recipients of teacher scholarships who render qualified teaching service in accordance with Section 5 of this regulation.

(3) Kentucky residents who are enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution and who agree to render qualified teaching service upon completion of the program of study shall be eligible, except for limitations imposed by subsection (5) of this section, to apply for teacher scholarships if they meet the following criteria:

(a) High school graduates with no college hours must rank academically in the top ten (10) percent of their high school graduating class or score at or above the 80th percentile on an instrument approved by the Council on Higher Education for admission to Kentucky's institutions of higher education.

(b) Certified teachers seeking recertification in order to teach in a critical shortage area must have a cumulative grade point average of at least the equivalent of 2.5 on a 4.0 scale on prior undergraduate studies or a 3.0 on a 4.0 scale on prior graduate studies.

(c) Applicants with earned college hours must have attained at least the equivalent of a 2.5 grade point average on a 4.0 scale for all undergraduate work and a 3.0 on a 4.0 scale for all graduate work and must be currently enrolled or accepted for enrollment in a postsecondary institution.

(4) Persons enrolled full time at a participating institution in an eligible program of study who have previously received a teacher loan or a mathematics and science incentive loan, pursuant to KRS 156.611, 156.613, 164.768 and 164.770, or a teacher scholarship pursuant to this section, not in excess of the aggregate limit prescribed by Section 3 of this regulation, shall be eligible, except for limitations imposed by subsection (5) of this section, to apply for additional teacher scholarships if they:

(a) Have maintained continuous full-time enrollment, exclusive of periods of approved

deferment, in an eligible program of study;

(b) Have made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution; and

(c) Have attained a cumulative grade point average of at least the equivalent of 2.5 on a 4.0 scale on all prior undergraduate studies and at least 3.0 on a 4.0 scale on all prior graduate studies.

(5) No teacher scholarship shall be awarded nor promissory note cancellation granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until such financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the executive director of the authority at the recommendation of a designated staff review committee, for cause.

(6) Selection process. Applicants shall be considered and teacher scholarships shall be awarded in the following descending order until funds are depleted:

(a) Qualified renewal applicants pursuant to subsection (4) of this section;

(b) Certified teachers seeking recertification in a critical shortage area;

(c) Currently enrolled postsecondary students who have been admitted to a teacher education program;

(d) Currently enrolled postsecondary students who have not yet been admitted to a teacher education program; and

(e) High school seniors ranked by weighted selection scores that include rank in high school class (thirty (30) percent), high school grade point average (forty (40) percent), and American College Test (ACT) Composite Standard Score (thirty (30) percent).

Section 3. Award Maximums. The maximum teacher scholarship award shall be \$1,250 for a summer session, \$2,500 for a semester, and \$5,000 for an academic year (exclusive of a summer session). Awards shall not exceed the student's total cost of attendance less other aid received as determined by the participating institution. The aggregate maximum of teacher scholarship awards shall not exceed \$20,000 per individual.

Section 4. Disbursements. Disbursement of teacher scholarships shall be made at the beginning of each semester or summer session and each disbursement shall be evidenced by a promissory note, prescribed by the authority, in which the scholarship recipient shall agree to repay the scholarship funds or render qualified teaching service in lieu thereof.

Section 5. Cancellation. (1) Recipients shall render one (1) semester of qualified teaching service as repayment for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received.

(2) Recipients who have outstanding mathematics and science incentive loans or teacher loans pursuant to KRS 156.611, 156.613, 164.768 or 164.770 may execute a new promissory note under the terms of this program in full

satisfaction of the outstanding balance of prior promissory notes. The new promissory notes shall be cancelled in accordance with subsection (1) of this section.

(3) In the event that a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, such teaching requirements shall not be fulfilled concurrently. Unless the authority determines otherwise for cause, loans or scholarships from more than one (1) program shall be repaid or cancelled by qualified teaching service in the same order in which they were received.

(4) Verification of qualified teaching service shall be submitted to the authority in writing, signed by the local school district superintendent or building principal.

Section 6. Repayment. (1) If a recipient ceases to be enrolled on a full-time basis in an eligible program of study at a participating institution prior to completion of the program of study or otherwise fails to attain certification after completion of the eligible program of study, he shall immediately become liable to the authority to pay the sum of all teacher scholarships received and accrued interest thereon, unless the authority, in its sole discretion, grants a deferment for cause.

(2) Recipients failing to render qualified teaching service within the six (6) month period following completion of the eligible program of study shall immediately become liable to the authority to pay the sum of all outstanding teacher scholarships and accrued interest thereon, unless the authority, in its sole discretion, grants a deferment for cause.

(3) Persons liable for repayment of teacher scholarships under this section shall be liable for interest accruing on each promissory note from the respective dates on which the teacher scholarships were disbursed.

(4) The interest rate applicable to repayment of a teacher scholarship under this section shall be twelve (12) percent per annum, except that promissory notes shall provide that if a judgment is rendered to recover payment, the judgment shall bear interest at a rate five (5) percent greater than the rate actually charged on the promissory note.

Section 7. Notifications. Recipients shall notify the authority within thirty (30) days of:

- (1) Change in enrollment status;
- (2) Cessation of full-time enrollment in an eligible program of study;
- (3) Employment in a qualified teaching service position; or
- (4) Change of name or address.

Section 8. Repayment Schedule. Written notification of demand for repayment shall be sent by the authority to the scholarship recipient's last known address and shall be effective upon mailing. The authority may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the authority. Payments shall first be applied to interest and then to principal on the earliest unpaid promissory note.

Section 9. Records. A participating institution shall maintain complete and accurate

records pertaining to the eligibility, enrollment and progress of students receiving aid under this program and the disbursement of funds and institutional charges as may be necessary to audit the disposition of funds hereunder. Such records shall be maintained for at least five (5) years after the student ceases to be enrolled at the institution.

Section 10. Refunds. A participating institution shall refund to the authority, within forty (40) days of a recipient's last date of attendance, any amount attributable to this program which is determined to be due under the institution's refund policy.

Section 11. Information Dissemination and Recruitment. The authority shall disseminate information through high school principals, counselors, and school superintendents about this program to potential recipients. Participating institutions shall provide assurances that program information will be disseminated to students enrolled at their institutions. Participating institutions shall actively recruit students from minority population groups for participation in this program.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY 11 KAR 8:040E

This emergency administrative regulation implements a teacher scholarship program to provide improved benefits to new recipients as well as prior recipients of Math/Science Incentive loans (under KRS 164.768) and Teacher Scholarships (under KRS 164.770). The regulation is intended to provide a uniform system of benefits and effectively merge the existing programs through a process of refinancing existing loans. An emergency exists necessitating immediate implementation of this program to assure timely, uninterrupted delivery of student financial aid by the beginning of the fall, 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 8:040E. Deferment of teacher scholarship repayment.

RELATES TO: KRS 164.744(2), 164.753(3)

STATUTORY AUTHORITY: KRS 164.748(4)

EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: KRS 164.744(2) authorizes the authority to provide scholarships, and KRS 164.753(3) prescribes certain standards for scholarship programs. House Bill 799 appropriated funds for a new program of teacher scholarships. The General Assembly has expressed a desire, in a budget memorandum prepared under KRS 48.300(2) to

accompany House Bill 799, that prior recipients of loans pursuant to KRS 156.611, 156.613, 164.768 and 164.770 should be eligible for benefits under this new program. 11 KAR 8:030 establishes a repayment obligation for teacher scholarship recipients. This regulation prescribes conditions for deferment of that repayment obligation.

Section 1. Definitions. Unless otherwise specified, the words and phrases used herein shall have the same meaning as set forth in 11 KAR 8:030. "Deferment" means a temporary waiver of the obligation of a teacher scholarship recipient to make payments to the authority, pursuant to one (1) or more promissory notes executed between the recipient and the authority, which is granted by the authority, for a specified period of time, upon a showing of cause by the recipient.

Section 2. Request for Deferment. The recipient must request a deferment in writing by submitting complete and accurate information on a form prescribed by the authority. The recipient's submission of a request for deferment shall constitute authorization for the authority to request and receive such verification of facts represented by the recipient as may be deemed necessary by the authority.

Section 3. Effect on Repayments. During a deferment, no principal or interest repayments shall be required but interest shall continue to accrue on the unpaid principal balance owed by the recipient during period specified in Section 4(1) and (3) of this regulation. No interest shall accrue during a period specified in Section 4(2) of this regulation. Nothing contained herein shall require the authority to grant a deferment if such deferment would legally impair the ultimate recovery of the principal and accrued interest otherwise owed by the recipient. If, during a deferment, the recipient resumes full-time enrollment in a teacher education program at a participating institution or renders qualified teaching service, then the deferment shall nullify the prior commencement of repayment, such that any promissory note so deferred may be subsequently cancelled in accordance with 11 KAR 8:030.

Section 4. Types of Deferments. The following deferments may be granted by the authority:

(1) Enrollment deferment. A deferment granted to a recipient who is enrolled on at least a half-time basis at a business school, college, vocational school or school of nursing (as those terms are defined in KRS 164.740) in the United States. Each semester, the recipient must provide to the authority evidence of such enrollment on properly completed forms provided by the authority.

(2) The authority may grant deferment of repayment for periods not to exceed an aggregate of thirty-six (36) months for any one (1) or combination of the following circumstances:

(a) Disability deferment. A deferment granted to a recipient who is temporarily totally disabled and, therefore, unable to obtain any full-time employment or to attend school; or, a deferment granted to a recipient who is unable to obtain any full-time employment or attend school due to the temporary total disability of

the recipient's spouse who requires continuous (twenty-four (24) hour) nursing or similar care by the recipient. For purposes of this deferment, a recipient, or the spouse of a recipient, is temporarily totally disabled if he/she suffers an injury or illness which necessitates an extended or indefinite period of recovery which can be expected to preclude gainful employment or school attendance and, in the case of a recipient's spouse, he/she is not confined to a hospital, nursing home, intermediate care facility, or similar institution. The recipient must provide to the authority a statement from a licensed physician certifying that the recipient or spouse is temporarily totally disabled in accordance with the preceding terms and conditions. The recipient is solely responsible for securing the physician's certifications. This deferment may, at the authority's discretion, be granted subject to annual review of a physician's certification. After the third year of any deferment, pursuant to this subsection, the authority may, in its sole discretion, cancel the debt if it appears that the disability is expected to continue for an indefinite time.

(b) Unemployment deferment. A recipient seeking, but unable to obtain, a qualified teaching service position within six (6) months following completion of a teacher education program at a participating institution may be granted a deferment. The recipient must have applied for a qualified teaching service position with at least three (3) state accredited school districts and must not have refused an offer of employment in a qualified teaching service position in such state accredited school districts or in any other state accredited school districts to which the recipient may have applied, and must provide the authority a signed statement which sets forth:

1. The recipient's current address;
2. The names of state accredited school districts to which the recipient has applied for qualified teaching service employment; and
3. The recipient's agreement to notify the authority when he/she obtains full-time employment in a qualified teaching service position.

(c) Hardship deferment. If enrollment in a teacher education program or employment in a qualified teaching service position is temporarily interrupted due to circumstances beyond the recipient's control, including, but not limited to, major illness, accident or death in the family, after which the recipient intends to resume such enrollment or qualified teaching position, or if the recipient is insolvent due to circumstances beyond his control, including natural disaster, involuntary unemployment or unforeseen medical expenses, then the authority may determine that a hardship exists and may grant a deferment.

(3) Qualified teaching service deferment.

(a) Deferments may be granted, from time to time, to a recipient who, due to current employment in a qualified teaching service position, may reasonably be expected, solely with the passage of six (6) months or less time, to qualify for cancellation benefits pursuant to 11 KAR 8:030.

(b) In the event that a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service

for repayment or cancellation, and the recipient is either:

1. Obligated to concurrently make cash payments on the teacher scholarship and another such program; or
2. Performing qualified teaching service to fulfill the requirement of another such program; then a deferment of repayment of the teacher scholarship may be granted during the period in which the recipient is making payments or performing qualified teaching service in accordance with the requirements of the other program.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
11 KAR 11:010E

This emergency administrative regulation establishes the college access program (CAP) and prescribes the student eligibility criteria. An emergency exists necessitating the immediate implementation of this regulation, because applications must be submitted and processed and award determinations made during the spring to allow adequate notification of awards and to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the fall 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 11:010E. College access program grants: establishment and eligibility.

RELATES TO: KRS 164.744(2), 164.753(4)
STATUTORY AUTHORITY: KRS 164.748(4), HB 799 (1990 RS), Part I, F., 46., p. 51 and 52
EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: House Bill 799 authorized and directed the authority to provide grants to assist financially needy part-time and full-time freshmen and sophomores to attend eligible public and private nonprofit colleges and universities in Kentucky. That budget bill also authorized the authority to promulgate administrative regulations pertaining to administration of those grants. This regulation establishes and names the program, and prescribes eligibility requirements.

Section 1. Definitions. (1) The terms "college" and "grant" shall have the meanings prescribed in KRS 164.740.

(2) "Participating institution" shall mean a public or private nonprofit college, located in the Commonwealth, which has in force an agreement with the authority providing for administration of this program.

Section 2. (1) The authority may award college access program grants, hereafter referred to as "CAP grants", to students who demonstrate financial need in accordance with procedures

delineated in 11 KAR 11:020 and 11:030 and are accepted for enrollment or enrolled for three (3) or more semester hours in courses creditable toward a degree or courses required as prerequisites to enrollment in courses toward a degree at a participating institution.

(2) CAP grants shall be made only to students who have not previously earned a degree and who are enrolled or accepted for enrollment at a single participating institution that offers only two (2) year programs or who are classified as freshmen or sophomores by a participating institution.

(3) CAP grants shall be restricted to individuals who are classified as resident students, under administrative regulations promulgated by the council on higher education, and are not enrolled in a program of study leading to a certificate, diploma, or degree, in theology, divinity, or religious education.

(4) No CAP grant shall be awarded or disbursed to any person who is in default on any financial obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until that financial obligation to the authority is satisfied, except that ineligibility for this reason may be waived by the executive director of the authority, at the recommendation of a designated staff review committee, for cause.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
11 KAR 11:020E

This emergency administrative regulation prescribes the application forms to be used in the college access program (CAP). An emergency exists necessitating the immediate implementation of this regulation, because applications must be submitted and processed and award determinations made during the spring to allow adequate notification of awards and to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the fall 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 11:020E. Student application.

RELATES TO: KRS 164.744(2), 164.753(4)
STATUTORY AUTHORITY: KRS 164.748(4), HB 799 (1990 RS), Part I, F., 46., p. 51 and 52
EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation prescribes the forms to be used by students to apply for and establish financial need for CAP grant program.

Section 1. Definitions. (1) "Expected family contribution" shall mean the amount which a student and his/her family are expected to contribute toward the cost of the student's education determined in accordance with congressional methodology, prescribed in Title IV, Part F of the federal act (20 U.S.C. §1087kk through §1087vv).

(2) "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the authority's on-campus agent to certify all institutional transactions and activities with respect to the CAP grant program.

(3) "Pell grant" means an award under the Pell Grant Program operated by the United States Government under the provision of 20 U.S.C. 1070a.

Section 2. In order to receive CAP grant program benefits for the 1990-91 academic year, the 1990-91 Kentucky Financial Aid Form shall be completed and submitted, in accordance with the instructions provided by the authority, by students accepted for enrollment on at least a half-time basis, as determined by the participating institution. The application and instructions are available from the authority at its office at 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky. An applicant shall indicate the choice of an educational institution on the application to be considered for the CAP grant. The participating institution listed first shall be used in the determination of a CAP grant program award. If the student provides written notification of change of first choice educational institution, on or before August 1 or December 1, prior to the commencement of the respective fall or spring semester for which a CAP grant is sought, grant program eligibility shall be redetermined and award determination shall be recomputed by the authority based upon the new choice of educational institution. If the student changes his/her choice of educational institution after August 1, any CAP grant award for the succeeding fall academic term shall be revoked, and grant program eligibility shall be recomputed for the spring academic term. If the student changes his/her choice of educational institution after December 1, any CAP grant award for the succeeding spring term shall be revoked.

Section 3. (1) Students accepted for enrollment on less than a half-time basis, as determined by the participating institution, may apply for a CAP grant by completing and submitting to the KGPO at the participating institution a "College Access Program (CAP) Grant Application For Less Than Half-time Students." This form is available from the KGPO at each participating institution or from KHEAA. Except for applicants described in subsection (2) of this section the applicant shall also provide to the KGPO information sufficient to allow the KGPO to determine the expected family contribution.

(2) A student who receives benefits on his or her behalf under the Aid to Families with Dependent Children (AFDC), Medicaid, or Food Stamp program or income based participation in the Job Training Partnership Act Program administered by the Kentucky Cabinet for Human Resources, Bureau for Social Insurance, or the

Social Security Insurance (SSI) Program administered by the federal government shall provide, with the application form, a document received from the provider of benefits, bearing the student's name and Social Security Number, sufficient to indicate receipt of the specified public assistance benefits. If the applicant is not named on the documentation of public assistance benefits, the applicant shall also provide a copy of a federal income tax return for the preceding tax year recognizing the applicant as a dependent of the person named on the public assistance documentation.

Section 4. To properly complete the CAP grant application procedure, each applicant described in Section 2 of this regulation who receives payments for himself/herself or whose parent receives payments on behalf of the applicant under the program known as "Aid to Families with Dependent Children (AFDC)" administered by the Kentucky Cabinet for Human Resources, Bureau for Social Insurance, (CHR, BSI), shall indicate in the designated place on the application that these benefits are received. The authority shall request data from the CHR, BSI to verify that the family is a current, bona fide recipient of payments under the AFDC program.

Section 5. A CAP grant recipient, who, on the basis of information submitted on the Kentucky Financial Aid Form, is potentially eligible for a Pell grant must apply for the Pell grant prior to disbursement of the spring semester portion of the CAP grant. Recipients subject to this regulation will be notified by the authority in advance of cancellation of the undisbursed portion of the CAP grant. If, within a reasonable time period following such notification, the student fails to provide documentation of filing for a Pell grant, the undisbursed portion of the CAP grant shall be cancelled.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY 11 KAR 11:030E

This emergency administrative regulation establishes the maximum grant awards for the college access program (CAP). An emergency exists necessitating the immediate implementation of this regulation, because applications must be submitted and processed and award determinations made during the spring to allow adequate notification of awards and to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the fall 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 11:030E. Award determination procedure.

RELATES TO: KRS 164.744(2), 164.753(4)
 STATUTORY AUTHORITY: KRS 164.748(4), HB 799
 (1990 RS), Part I, F., 46., p. 51 and 52
 EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation prescribes the award determination procedures for the CAP grant program.

Section 1. Definitions. (1) "Expected family contributions" shall mean the amount which a student and his/her family may be expected to contribute toward the cost of the student's education determined, except as provided in Section 3 of this regulation, in accordance with congressional methodology, prescribed in Title IV, Part F of the federal act (20 U.S.C. §1087kk through §1087vv).

(2) "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the authority's on-campus agent to certify all institutional transactions and activities with respect to the CAP grant program.

(3) "Overaward" means provision through any and all sources of financial assistance to meet educational expenses in excess of a student's need.

Section 2. Each application shall be reviewed for determination that all eligibility requirements set forth in 11 KAR 11:010 are met. To qualify for a CAP award the applicant's expected family contribution shall be \$2,000 or less.

Section 3. Each verified applicant receiving public assistance benefits specified in 11 KAR 11:020, Sections 3 or 4, shall be presumed to have an expected family contribution of zero.

Section 4. Maximum Award. (1) Except as provided in subsection (3) of this section, the maximum CAP grant shall be \$320 per semester for an applicant accepted for enrollment on a full-time basis as determined by the participating institution.

(2) Except as provided in subsection (3) of this section, the maximum CAP grant shall be \$27 per semester credit hour (not in excess of the maximum specified in subsection (1) of this section) for an applicant accepted for enrollment on less than a full-time basis as determined by the participating institution.

(3) In no event shall the CAP grant award exceed the applicant's cost of education less expected family contribution and other anticipated student financial assistance.

(4) The maximum awards specified in subsections (1) and (2) of this section shall be adjusted by the authority as necessary to conform those maximums to the tuition rate generally charged for attendance at the Commonwealth's publicly supported community colleges, as determined by the Council on Higher Education.

Section 5. The authority shall reduce or revoke a CAP grant upon receipt of documentation that financial assistance from other sources in combination with the CAP grant exceeds the determination of financial need for that student. The KHEAA grant program officer (KGPO) shall reduce a CAP grant by the corresponding amount of any waiver of tuition or financial assistance exclusively designated for tuition. The KHEAA grant program officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

Section 6. If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a CAP grant that has already been offered, but not disbursed, the grant shall be revoked. If the student is determined to be ineligible after the CAP grant has been disbursed, the student shall repay to the authority the entire amount of the CAP grant.

Section 7. If the authority receives revised data that, upon recomputation, necessitates reduction of the CAP grant and the grant has not yet been disbursed, the reduction shall be made to both the fall and spring disbursements, and the student shall be notified of the reduction. If the grant for the fall academic term has already been disbursed, then the reduction shall be made to the spring disbursement. If both the fall and spring disbursements have been made, the student shall repay the overaward to the authority.

Section 8. Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a CAP grant. Any student who is awarded a CAP grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

WAYNE STRATTON, Chairman

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY

11 KAR 11:040E

This emergency administrative regulation prescribes the process for notification of awards under the college access program (CAP). An emergency exists necessitating the immediate implementation of this regulation, because applications must be submitted and processed and award determinations made during the spring to allow adequate notification of awards and to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the fall, 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
 WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 11:040E. Notification of award.

RELATES TO: KRS 164.744(2), 164.753(4)
 STATUTORY AUTHORITY: KRS 164.748(4), HB 799
 (1990 RS), Part I, F., 46., p. 51 and 52
 EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation sets forth the procedures for notification to CAP grant applicants and to participating institutions.

Section 1. Definitions. "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the authority's on-campus agent to certify all institutional transactions and activities with respect to the CAP grant programs.

Section 2. Each CAP grant recipient that applied, using the Kentucky Financial Aid Form, shall be notified by the authority of the amount of award together with disbursement information. The recipient shall notify the authority of any incorrect information appearing on the notice, including name, address, Social Security Number or institutional choice errors or changes.

Section 3. So long as funds are available, the authority shall individually notify applicants of the reason for their denial. When funds are no longer available, public, rather than individual, notification shall be given.

Section 4. Periodically, the authority shall forward to the KGPO at each participating institution a report listing student applicants who have applied using the Kentucky Financial Aid Form and indicated that institution as the one in which they plan to enroll.

Section 5. Applicants using a "College Access Program (CAP) Grant Application for Less than Half-time Students" shall be notified of the award or the reason for denial by the KGPO at the participating institution.

WAYNE STRATTON, Chairman
 APPROVED BY AGENCY: May 15, 1990
 FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
11 KAR 11:050E

This emergency administrative regulation sets forth the process for disbursement of CAP grants. It is imperative that the regulation become effective immediately to allow time for implementation of the disbursement process and coordination with participating institutions to assure timely, uninterrupted delivery of student financial aid funds by the beginning of the fall, 1990 semester. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on May 15, 1990.

WALLACE G. WILKINSON, Governor
 WAYNE STRATTON, Chairman

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 11:050E. Disbursement procedures.

RELATES TO: KRS 164.744(2), 164.753(4)
 STATUTORY AUTHORITY: KRS 164.748(4), HB 799
 (1990 RS), Part I, F., 46., p. 51 and 52
 EFFECTIVE: May 21, 1990

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation sets forth the disbursement procedures for the CAP grant program.

Section 1. Definitions. "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the authority's on-campus agent to certify all institutional transactions and activities with respect to the KHEAA grant programs.

Section 2. Eligibility Verification. (1) The CAP grant program eligibility verification roster for applicants who file the Kentucky Financial Aid Form shall be forwarded to the KGPO at each participating institution prior to the beginning of each semester.

(2) The KGPO shall certify the eligibility of CAP grant recipients according to instructions attached to the roster, which shall include:

(a) Conditions under which a CAP grant shall be disbursed to the benefit of the CAP grant recipient;

(b) Conditions under which CAP grant funds shall be returned to the authority; and

(c) The date on which any undisbursed CAP grant funds shall be returned to the authority.

(3) The KGPO shall certify and submit to the authority, not later than three (3) weeks after the last date for students to enroll for that semester, the information establishing the eligibility of students that applied using a "College Access Program (CAP) Grant Application for Less than Half-time Students."

Section 3. Disbursement of Funds. (1) The authority shall transfer funds to the KGPO at the time the eligibility verification roster is transmitted. Upon receipt of the properly certified eligibility verification roster, the authority shall transfer additional CAP grant funds, if necessary, to the KGPO as payment on behalf of each eligible CAP grant recipient.

(2) An institution which has not returned an eligibility verification roster or completed it according to instructions shall not receive additional funds until it has satisfied the requirements in Section 2(2) of this regulation.

Section 4. The participating institution shall be responsible for verification of continued eligibility at the time of disbursement of CAP grants. The institution shall be liable for disbursement to the wrong student or to an ineligible student, and shall make restitution to the authority of any amount improperly disbursed. Failure of the institution to make restitution when required shall, without precluding other remedies, be deemed cause for limitation, suspension or termination of the participation of the institution in accordance with 11 KAR 4:020.

WAYNE STRATTON, Chairman
 APPROVED BY AGENCY: May 15, 1990
 FILED WITH LRC: May 21, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
 30 KAR 2:010E

Senate Bill 223, enacted during the 1990 Regular Session of the General Assembly, amended KRS 118.105(1), (3) and (4), governing certification by the Secretary of State that a vacancy exists in a nomination governed by KRS 118.105. It established a new procedure affecting the withdrawal of candidates; restricted their replacement by the governing authority of political parties; and required certification by the Secretary of State that the vacancy occurred pursuant to the newly enacted provisions. Senate Bill 223 became effective upon the Governor's signature on March 12, 1990. In order to have adequate time to comply with the provisions of Senate Bill 223 before the next regular election, and in order to comply with the intent of Senate Bill 223 to prevent the manipulation of elections, it is necessary that this administrative regulation take effect immediately. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

WALLACE G. WILKINSON, Governor
 BREMER EHRLER, Secretary of State

SECRETARY OF STATE

30 KAR 2:010E. Certification of vacancy in nominations.

RELATES TO: KRS 118.105
 STATUTORY AUTHORITY: KRS 118.105
 EFFECTIVE: June 13, 1990

NECESSITY AND FUNCTION: Senate Bill 223, enacted during the 1990 Regular Session of the General Assembly, amended KRS 118.105(1), (3) and (4), governing certification by the Secretary of State that a vacancy exists in a nomination governed by KRS 118.105. This administrative regulation is required to establish the procedure for the determination and certification of a vacancy under the provisions of KRS 118.105.

Section 1. Notification of Vacancy. (1) The Secretary of State shall be notified of the vacancy in a nomination governed by KRS 118.105.

- (2) The notification shall:
 - (a) Be written;
 - (b) Be dated;
 - (c) State the reason for the vacancy;
 - (d) Contain documentation to substantiate the reason for the vacancy;
 - (e) Be signed by the person making the notification; and
 - (f) Be notarized.
- (3) The notification may be made by:
 - (a) The candidate;
 - (b) The governing authority of a party;
 - (c) A registered voter; or
 - (d) An opposing candidate.
- (4) The notification shall be delivered to the Secretary of State by:
 - (a) Certified mail; or
 - (b) The person making the notification.

Section 2. Documentation to Substantiate Reason for Vacancy. (1) Documentation to substantiate the reason for a vacancy shall be filed with the notification by the candidate or governing authority of the party as provided by this section. For:

(a) Death of a candidate: a certificate of death or other evidence satisfactory to the Secretary of State;

(b) Disqualification to hold the office sought: evidence of legal disqualification; and

(c) Severe disabling condition: medical evidence of the condition.

(2) Medical evidence of a severe disabling condition shall consist of medical evidence provided by:

(a) A licensed and practicing:

1. Physician;
2. Osteopath;
3. Psychologist;
4. Psychiatrist; or

(b) Other medical professional qualified to make a determination that the candidate is suffering from a severe disabling condition.

(3) The documentation filed to substantiate the reason for vacancy may be challenged, in writing, by:

(a) The governing authority of an opposing party;

(b) An opposing candidate; or

(c) A registered voter.

(4)(a) The Secretary of State shall review all documentation relating to the reason for a vacancy.

(b) If he determines that additional documentation is required, he shall request a review:

1. Of the medical evidence of a severe disabling condition filed with the notification;

2. By a medical professional specified in subsection (2) of this section.

Section 3. The Secretary of State shall not certify that a vacancy exists if he determines that the documentation filed to substantiate the reason for the vacancy does not establish that a vacancy exists because of:

(1) Death;

(2) Disqualification to hold the office sought; or

(3) A severe disabling condition which arose after the nomination.

BREMER EHRLER, Secretary of State
 APPROVED BY AGENCY: June 11, 1990
 FILED WITH LRC: June 13, 1990 at 11 a.m.

STATEMENT OF EMERGENCY
 501 KAR 6:150E

In order to operate the Eastern Kentucky Correctional Complex in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because these are new institutional policies which must be implemented immediately to allow the Eastern Kentucky Correctional Complex to operate and to bring them into compliance with standards set by the American Correctional Association. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on May 15, 1990 in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
JOHN T. WIGGINTON, Secretary

CORRECTIONS CABINET

501 KAR 6:150E. Eastern Kentucky Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: May 18, 1990
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on May [February] 15, 1990, hereinafter should be referred to as the Eastern Kentucky Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

EKCC 01-01-01 Institutional Legal Assistance
EKCC 01-02-01 Public Information and News Media Access
EKCC 01-06-01 Inmate Death
EKCC 01-06-02 Crime Scene Camera
EKCC 01-07-01 Institutional Tours of EKCC
EKCC 01-07-02 EKCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive, and Community Agencies
EKCC 01-07-03 Outside Consultation and Research
EKCC 01-08-01 Monthly Reports
EKCC 01-09-01 Duty Officer Responsibilities [(Added 2/15/90)]
EKCC 01-10-01 Annual Planning Document and Conference
EKCC 01-10-02 Organization and Assignment of Responsibility
EKCC 01-10-03 Institutional Planning
EKCC 01-13-01 Organization of Operations Manual
EKCC 01-13-02 Monitoring of Operations, Policies and Procedures
EKCC 01-13-03 Formulation and Revision of EKCC Operating Procedures
EKCC 01-13-04 Meetings Conducted and Their Purpose
EKCC 02-01-01 Canteen Cards: Issuance and Distribution
EKCC 02-01-02 Inmate Canteen
EKCC 02-02-01 Fiscal Management: Agency Funds
EKCC 02-05-01 Fiscal Management: Budget
EKCC 02-08-01 Property Inventory
EKCC 02-08-02 Warehouse Operation and Inventory Control
EKCC 02-11-01 Purchase and Supply Requisition
EKCC 02-12-01 Fiscal Management: Audits
EKCC 02-13-01 Fiscal Management: Accounting Procedures
EKCC 02-14-01 Screening Disbursements from Inmate Personal Accounts
EKCC 03-01-01 Construction Crew Entry/Exit
EKCC 03-08-01 Replacement of Damaged or Destroyed Personal Property

EKCC 03-09-01 Use of Interns and Students
EKCC 03-18-01 Fiscal Management: Insurance
EKCC 04-01-01 Staff Participation in Professional Organizations and Conferences; Provision for Leave and Reimbursement for Expenses
EKCC 04-02-01 Emergency Preparedness Training
EKCC 05-01-01 Inmate Participation in Authorized Research
EKCC 05-02-01 Information System
EKCC 06-01-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel and Volunteers
EKCC 06-03-01 Offender Records
EKCC 08-02-01 Fire Safety
EKCC 08-02-02 Fire Procedures [(Added 2/15/90)]
EKCC 08-02-03 Fire Prevention (Added 5/15/90)
EKCC 08-03-01 Emergency Preparedness Manual
EKCC 08-03-03 Emergency Medical Transportation (Added 5/15/90)
EKCC 08-05-01 Emergency Squad: Selection, Training and Evaluation
EKCC 09-04-01 Inmates Immediate Family, Bedside Visits; and Funeral Trips
EKCC 09-06-01 Unauthorized Items [(Added 2/15/90)]
EKCC 09-08-01 Unit Searches/Control of Excess Property
EKCC 09-08-02 Contraband, Dangerous Contraband, Search Policy
EKCC 09-09-01 Transportation of Inmates
EKCC 09-10-01 Institutional Inspections
EKCC 09-12-01 Key Control
EKCC 09-13-01 Institutional Post Orders
EKCC 09-14-01 Count Procedures [(Added 2/15/90)]
EKCC 09-15-01 Standards for Maintaining Perimeter Safety
EKCC 09-15-02 Lobby/Reception: Entry and Exit Procedure [(Added 2/15/90)]
EKCC 09-19-01 Contraband Outside Institutional Perimeter
EKCC 09-20-01 Drug Abuse/Intoxicants Testing
EKCC 09-21-01 Collection, Preservation of Evidence
EKCC 09-22-01 Restricted Areas
EKCC 09-23-01 Regulation of Inmate Movement
EKCC 09-24-01 Guidelines for Unit Staff
EKCC 09-25-01 Procedures for Prohibiting Inmate Authority over Other Inmates
EKCC 09-26-01 Security Activity Logs [(Added 2/15/90)]
EKCC 10-02-01 Special Management Unit: Operating Procedures and Living Conditions [(Added 2/15/90)]
EKCC 10-02-02 Special Management Inmates: Assignment, Classification, Reviews and Release [(Added 2/15/90)]
EKCC 10-02-03 Grooming Standards for Special Management (Added 5/15/90)
EKCC 11-02-01 Meal Planning for General Population (Added 5-15-90)
EKCC 11-02-02 Food Service: Purchasing, Storage and Farm Products (Added 5/15/90)
EKCC 11-03-01 Food Service: Menu, Nutrition and Special Diets (Added 5/15/90)
EKCC 11-04-01 Food Service: Inspections and Sanitation (Added 5/15/90)
EKCC 11-04-02 Medical Screening of Food Handlers (Added 5/15/90)
EKCC 11-05-01 Food Service: Security (Added 5/15/90)
EKCC 11-06-01 Food Service: Kitchen and Dining Room Inmate Worker Responsibilities (Added 5/15/90)

EKCC 11-07-01 Dining Room Guidelines (Added 5/15/90)
 EKCC 11-08-01 QJT Food Service Training Placement (Added 5/15/90)
 EKCC 12-01-01 Vermin and Insect Control
 EKCC 12-02-01 Inmate Dress and Use of Access Areas (Amended 5/15/90) [(Added 2/15/90)]
 EKCC 13-02-01 Emergency Medical Procedure (Added 5/15/90)
 EKCC 13-02-02 Disaster and Mass Casualty Plan (Added 5/15/90)
 EKCC 14-02-01 Personal Hygiene Items: Issuance and Replacement Schedule
 EKCC 14-04-01 Inmate Legal Services
 EKCC 14-06-01 Inmate Grievance Procedure
 EKCC 15-05-01 Restoration of Forfeited Good Time
 EKCC 15-06-01 Due Process/Disciplinary Procedure [(Added 2/15/90)]
 EKCC 16-01-01 Inmate Visiting [(Added 2/15/90)]
 EKCC 16-02-01 Inmate Correspondence
 EKCC 16-05-01 Inmate Access to and Communication with EKCC Staff
 EKCC 16-05-02 Unit Bulletin Boards
 EKCC 17-01-01 Authorized Inmate Personal Property [(Added 2/15/90)]
 EKCC 17-01-02 Personal Property Control [(Added 2/15/90)]
 EKCC 17-02-01 Assessment/Orientation
 EKCC 17-04-01 Inmate Reception Process at the EKCC
 EKCC 18-01-01 Inmate Classification
 EKCC 18-10-01 Parole Progress Report
 EKCC 19-04-01 Inmate Work Program
 EKCC 21-01-01 Library Services
 EKCC 23-01-01 Religious Services
 EKCC 23-01-02 Muslim Services - Ramadan (Added 5/15/90)
 EKCC 25-02-01 Inmate Discharge Procedure
 EKCC 25-03-01 Prerelease Preparation
 EKCC 25-04-01 Extended Visits (Furlough)
 EKCC 25-06-01 Community Center Program [(Added 2/15/90)]
 EKCC 26-01-01 Citizens Involvement and Volunteers

JOHN T. WIGGINTON, Secretary

APPROVED BY AGENCY: May 15, 1990

FILED WITH LRC: May 18, 1990 at 3 p.m.

STATEMENT OF EMERGENCY 601 KAR 1:029E

This emergency administrative regulation establishes the definitions which are needed for the understanding of 601 KAR 1:030 through 601 KAR 1:145. The definitions are currently established in 601 KAR 1:035. The 1990 General Assembly passed House Bill 696 which contains a new determination as to when the U-drive-it statutes are applicable. Existing 601 KAR 1:035 will not be in compliance with this new determination because of the definition of U-drive-it given in Section 10. This new administrative regulation complies with state law by omitting the definition of U-drive-it. It is necessary to promulgate this as an emergency regulation because House Bill 696 will be effective on July 13, 1990. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary regulation was filed with the Regulations Compiler on May 30, 1990.

WALLACE G. WILKINSON, Governor
 MILO D. BRYANT, Secretary

TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Carriers

601 KAR 1:029E. Definitions relating to 601 KAR 1:030 through 601 KAR 1:145.

RELATES TO: KRS Chapter 281
 STATUTORY AUTHORITY: KRS 281.600
 EFFECTIVE: June 14, 1990

NECESSITY AND FUNCTION: To assure uniformity of all terminology in the administrative regulations relating to motor carriers.

Section 1. KRS 281.010-281.014 Adopted. The definitions set forth in KRS 281.010-281.014 shall have the same meaning and effect in the administrative regulations of the Transportation Cabinet which relate to motor carriers: 601 KAR 1:030 through 601 KAR 1:145.

Section 2. Official Maps Defined for Use. The cabinet, when considering, in any matter, that phase of the authority issued by it involving highways or specific highway routes shall use photostatic copies of official maps issued by the Kentucky Department of Highways and certified by them for the year in which the authority was issued, or the map issued immediately preceding the year of issuance, if the map for that year will be or was issued subsequent to the authority.

Section 3. Approval. "Approval" shall mean written approval.

Section 4. Authorized Carrier. "Authorized carrier" shall mean a person duly qualified with the cabinet to engage in the transportation of persons or property for hire in either interstate commerce, or intrastate commerce in Kentucky, or both.

Section 5. Delivery. "Delivery" shall mean handing the legal document or paper to the attorney or to the party; or leaving it at his office with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein, or if the office is closed, or the person to be served has no office, leaving it at his dwelling house or his place of abode with some person of suitable age and discretion then residing therein.

Section 6. Manifest. "Manifest" shall mean a complete listing of all shipments on a truck. The manifest shall refer to the freight bill of each shipment by individual pro number, and show the weight of each shipment and the origin and destination of each shipment.

Section 7. Party. "Party" shall mean either an applicant, complainant, respondent, or a person who has filed a protest in accordance with 601 KAR 1:030.

Section 8. Qualified Equipment. "Qualified equipment" shall mean a motor vehicle duly and currently registered and licensed for the transportation of persons or property for hire in intrastate commerce in Kentucky by an

authorized carrier who may properly conduct such transportation.

Section 9. Service. "Service" when regarding a legal document or paper shall mean the delivery of a copy of a pleading, protest, or other paper to the other party or his attorney, or by mailing it to the other party or his attorney, at the last known address of either.

Section 10. Repealer. 601 KAR 1:035, Definitions, is hereby repealed.

JEROME L. LENTZ, Commissioner

MILO D. BRYANT, Secretary

APPROVED BY AGENCY: May 23, 1990

FILED WITH LRC: June 14, 1990 at 2 p.m.

STATEMENT OF EMERGENCY 601 KAR 1:160E

This emergency administrative regulation allows for the specific requirements for the marking and identification of motor carrier vehicles. During the 1990 Legislative Session the General Assembly passed House Bill 696 which gave the Transportation Cabinet the specific statutory authority it needed to promulgate an administrative regulation setting forth the requirements for marking and identifying each motor carrier vehicle. This bill will be effective on July 13, 1990. Therefore, this emergency regulation is needed to ensure that the implementation of House Bill 696 is accomplished in a timely manner. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary regulation was filed with the Regulations Compiler on May 30, 1990.

WALLACE G. WILKINSON, Governor
MILO D. BRYANT, Secretary

TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Carriers Division of Motor Vehicle Enforcement

601 KAR 1:160E. Motor carrier vehicle identification.

RELATES TO: KRS Chapters 138 and 281

STATUTORY AUTHORITY: KRS 138.665, 281.600, 281.750

EFFECTIVE: June 14, 1990

NECESSITY AND FUNCTION: This regulation sets forth the requirements for the marking and identification of commercial motor vehicles operating in the Commonwealth of Kentucky. These same requirements have been set forth in 601 KAR 1:150. However, more specific authority for the issuance of the administrative regulation was given the Transportation Cabinet in House Bill 665 passed by the 1990 General Assembly. To insure compliance with KRS Chapter 13A the cabinet is repealing 601 KAR 1:150 and promulgating 601 KAR 1:160. These two (2) administrative regulations are identical because during the 1990 session, Transportation Cabinet officials testified to the Senate Transportation Committee that there would be no change in the requirements to the motor carrier industry.

Section 1. Definitions. (1) "Control number" means either an Interstate Commerce Commission motor carrier (ICC MC) number as required by 49 CFR 1058.2; a U.S. Department of Transportation (DOT) number as required by 49 CFR 390.21; or a Kentucky highway motor fuel use license (KYU) number as required by KRS 138.665;

(2) "Unique vehicle identification number" means the company unit number assigned to an individual vehicle;

(3) "Motor carrier" means as defined in KRS 138.655(5);

(4) "Carrier" means as defined in KRS 281.011(1) except U-drive-its;

(5) "Motor carrier vehicle identification card (cab card)" means that identifying plate, decal, card, sign or paper issued by the Department of Vehicle Regulation under the authority of KRS 281.752; and

(6) "Commercial motor vehicle" means as defined in KRS 138.655(4) and (5)(c) except that it does not include a farm vehicle properly registered under KRS 186.050(4).

Section 2. Identification. All motor carriers shall at all times display on each side of every vehicle employed by them in their operations the name of the company or person conducting the operation as the name appears on the certificate or permit authorizing the operation. An assumed or trade name may be used providing the appropriate statutes and regulations are complied with and the assumed or trade name also appears on the certificate or permit. The letters shall be of sufficient size so as to be readily legible. The motor carrier vehicle identification card (cab card) issued for the vehicle shall at all times be prominently displayed on the inside of the vehicle. The name of the driver operating a vehicle engaged in transportation of persons for-hire shall be prominently displayed in the vehicle.

Section 3. Control Number and Unique Identifier. (1) Every commercial motor vehicle having a declared gross weight above 26,000 pounds with three (3) or more axles, which is subject to any of the taxes in KRS 138.660, shall when operating upon the public highways of the Commonwealth of Kentucky display on the vehicle the control number of the motor carrier under whose authority the vehicle is being operated and a unique vehicle identification number for the vehicle. The motor carrier's control number required by this administrative regulation shall only be accepted by the Department of Vehicle Regulation for the purpose of exterior display on the vehicle and shall not be accepted for any other purpose. These numbers may be permanently affixed to the vehicle or displayed by use of a removable device.

(2) All ICC MC or DOT numbers shall be validated with the Department of Vehicle Regulation prior to their being accepted as control numbers. The control number shall be placed on both sides of the main body of the cab. The number shall be immediately preceded by an Alpha prefix indicating that the number is an ICC MC, ICC, MC, DOT or KYU number. The figures shall be in sharp color contrast to the background of the vehicle and of such size, shape and color as to be readily visible during daylight hours from a distance of fifty (50) feet when the vehicle is not in motion. These numbers shall be placed on the vehicle no higher

than the top of the side window and no lower than the top of the front wheel.

(3) The unique vehicle identification number shall be displayed on the front of the vehicle readily visible in daylight hours from a distance of 100 feet when the vehicle is not in motion. This number shall be in sharp color contrast to the background of the vehicle. It shall be placed no higher than the bottom of the windshield and no lower than the bottom of the front bumper.

Section 4. Repealer. 601 KAR 1:150, Identification of motor carrier vehicles, is hereby repealed.

JEROME L. LENTZ, Acting Commissioner
MILO D. BRYANT, Secretary

APPROVED BY AGENCY: May 23, 1990

FILED WITH LRC: June 14, 1990 at 2 p.m.

STATEMENT OF EMERGENCY 901 KAR 5:050E

This emergency regulation changes the fees to be paid for certified copies of certificates or records and sets a fee for a search of the files or records when no copy is made or for copies of information provided for research, statistical, or administrative purposes. In order to meet the July 13, 1990 deadline imposed by House Bill 64 and House Bill 799, 901 KAR 5:050 needs to be amended on an emergency basis. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES Department for Health Services

901 KAR 5:050E. Fees for searches, certified copies of certificates[; fee].

RELATES TO: KRS Chapter 213

STATUTORY AUTHORITY: KRS Chapter 213, H.B. 64, H.B. 799 as enacted by the 1990 General Assembly [194.050, 211.090]

EFFECTIVE: June 12, 1990

NECESSITY AND FUNCTION: KRS Chapter 213[.190] directs the Cabinet for Human Resources to set a reasonable fee by regulation for searches and/or for copies of the record of any birth or death [not to exceed four (4) dollars for each certified copy of records of death or other records registered with the cabinet, except records of birth, issued or search of the files if no certificate is found].

Section 1. Fees for Searches and, Certified Copies of Certificates. The following fees shall be charged for searches for and copies of records registered with the State Registrar of Vital Statistics, Cabinet for Human Resources:

| RECORD | RECORD SEARCH AND CERTIFIED COPY | RECORD SEARCH AND NO COPY |
|----------|--|---------------------------------|
| | | |
| Death | \$5.00 | \$5.00 |
| Marriage | \$5.00 | \$5.00 |
| Divorce | \$5.00 | \$5.00 |
| Birth | \$6.00 | \$6.00 |

[An applicant for a certified copy of the record of any death, marriage, divorce or other record except birth registered with the Director of Vital Statistics, Cabinet for Human Resources, shall pay a fee of four (4) dollars for a copy thereof or search of the files if no copy is found.]

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 5, 1990

FILED WITH LRC: June 12, 1990 at 3 p.m.

STATEMENT OF EMERGENCY 902 KAR 10:021E

Emergency regulation 902 KAR 10:021E is necessary in order to implement the provisions of House Bill 799 by amending the current environmental health regulation. An ordinary administrative regulation amendment cannot be in effect in time to meet the effective date of July 1, 1990, for House Bill 799, which increases state permit and/or inspection service fees. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES Department for Health Services Division of Local Health

902 KAR 10:021E. License fees for frozen food locker plants.

RELATES TO: KRS 221.020, HB 799 [516]

STATUTORY AUTHORITY: KRS 194.050, 221.020, HB 799 [516 Part IIA #42] of the 1990 [1988] GA

EFFECTIVE: May 16, 1990

NECESSITY AND FUNCTION: KRS 194.050 and HB 799 [516] authorizes the Secretary for Human Resources to adopt a reasonable schedule of fees covering all charges for health services provided by the Cabinet for Human Resources and any local health department. This regulation is to set forth a licensing fee relative to frozen food locker plants.

Section 1. All applications for a license to operate a frozen food locker plant or branch frozen food locker plant shall be accompanied by a license fee of eighteen (18) [fifteen (15)] dollars.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 7, 1990

FILED WITH LRC: May 16, 1990 at 11 a.m.

STATEMENT OF EMERGENCY 902 KAR 10:030E

Emergency regulation 902 KAR 10:030E is necessary in order to implement the provisions of House Bill 799 by amending the current environmental health regulation. In order to eliminate unnecessary duplication other timely and necessary amendments to this regulation have been included. An ordinary administrative regulation amendment cannot be in effect in time

to meet the effective date of July 1, 1990, for House Bill 799, which increases state permit and/or inspection service fees. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Local Health

902 KAR 10:030E. Sanitarians.

RELATES TO: KRS 223.010 to 223.080, 223.990
STATUTORY AUTHORITY: KRS 194.050, 211.090, HB 799 [516 Part IIA #42] of the 1990 [1988] GA
EFFECTIVE: May 16, 1990

NECESSITY AND FUNCTION: KRS 223.010 to 223.080, 223.990 and HB 799 [516] authorizes the Cabinet for Human Resources to establish minimum standards and qualifications for registered sanitarians. This regulation provides uniform standards for registered sanitarians and procedures for processing applications and to establish fees for examination and registration.

Section 1. Definitions. As used in this regulation:

(1) "Committee" means the Sanitarian Examining Committee consisting of five (5) members who are appointed in accordance with KRS 223.020.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Registered sanitarian" means a person trained in the field of public health sanitation who has qualified for registration in accordance with the provisions of KRS 223.010 to 223.080 and 223.990, and the regulations promulgated thereunder.

[(4) "Secretary" means the Secretary of the Cabinet for Human Resources.]

Section 2. Minimum Standards and Qualifications. In addition to the specific requirements provided by KRS 223.030, an applicant for registration as a sanitarian shall:

(1) Have graduated from an accredited college or university with a baccalaureate or higher degree, which shall include satisfactory completion of at least twenty-seven (27) quarter hours, or eighteen (18) semester hours, of academic training in the basic physical, chemical, biological, or sanitary sciences; and

(2) Be of good moral character.

Section 3. Applications for Registration. Applications for registration as a registered sanitarian shall be submitted to the committee on forms prepared and issued by them. Each application fee shall be remitted by a Post Office or express money order, bank draft, or check payable to the order of the cabinet. The committee may correspond with any references given on the applicant's application and may also contact any former employer of the applicant concerning his prior service in the field of public health sanitation.

Section 4. Examinations. The committee shall conduct examinations at least once a year at such time and place as it may deem expedient. The examination may be either oral, written, or

both. A fee of thirty (30) [twenty-five (25)] dollars shall accompany the application for examination. All registration certificates issued under the provisions of this regulation shall expire June 30 following date of issue, unless renewed by the payment of a twelve (12) [ten (10)] dollar registration fee.

Section 5. Certificates of Registration. After the committee has approved an application and all the requirements provided by law are fulfilled, the committee shall certify such fact to the secretary, who in turn shall issue a small card to the approved applicant certifying that he holds a certificate of registration. The committee shall assign serial numbers to each certificate of registration.

Section 6. Renewals. It shall be the duty of the secretary-treasurer of the committee to notify all registered sanitarians at least thirty (30) days prior to the expiration date of their certificate that they renew their certificate of registration as provided by law.

Section 7. Revocation of Certificates of Registration. In any action involving the revocation of a certificate of registration, the committee shall refer the matter to the secretary [the secretary shall refer to matter to the committee]. The committee is authorized to set the time and place of a hearing and the respondent shall be given at least thirty (30) days prior notice. At the conclusion of the hearing, the committee shall make a recommendation to the secretary in writing. The secretary is authorized to affirm, reverse, cancel, or modify the recommendation of the committee.

Section 8. Expenditure of Funds. Expenditures for examinations, clerical expenses, training and reference materials, including approved home study courses, and for affiliation with any national sanitarian registration organization, may be made out of the trust and agency fund created by KRS 223.050.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: May 7, 1990
FILED WITH LRC: May 16, 1990 at 11 a.m.

STATEMENT OF EMERGENCY
902 KAR 10:060E

Emergency regulation 902 KAR 10:060E is necessary in order to implement the provisions of House Bill 799 by amending the current environmental health regulation. An ordinary administrative regulation amendment cannot be in effect in time to meet the effective date of July 1, 1990, for House Bill 799, which increases state permit and/or inspection service fees. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Local Health

902 KAR 10:060E. On-site sewage disposal.

RELATES TO: KRS 211.350
 STATUTORY AUTHORITY: KRS 194.050, 211.350, HB 799 [516 Part IIA #42] of the 1990 [1988] GA
 EFFECTIVE: May 16, 1990
 NECESSITY AND FUNCTION: KRS 211.350(5) and HB 799 [516] authorizes the Cabinet for Human Resources to establish a schedule of reasonable fees to cover the costs of services performed by the cabinet with respect to on-site sewage disposal systems. The function of this regulation is to set forth the fee to be charged in order to cover the actual cost to the cabinet of the administration of the on-site sewage disposal system program.

Section 1. All applications for a permit to construct, install, or alter an on-site sewage disposal system filed with the cabinet or its agent shall be accompanied by a fee of twenty-five (25) [twenty (20)] dollars.

C. HERNANDEZ, M.D., Commissioner
 HARRY J. COWHERD, M.D., Secretary
 APPROVED BY AGENCY: May 7, 1990
 FILED WITH LRC: May 16, 1990 at 11 a.m.

STATEMENT OF EMERGENCY
902 KAR 10:121E

Emergency regulation 902 KAR 10:121E is necessary in order to implement the provisions of House Bill 799 by amending the current environmental health regulation. An ordinary administrative regulation amendment cannot be in effect in time to meet the effective date of July 1, 1990, for House Bill 799, which increases state permit and/or inspection service fees. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
 HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Local Health

902 KAR 10:121E. Inspection fees for public swimming and bathing facilities.

RELATES TO: HB 799 [492, HB 516]
 STATUTORY AUTHORITY: KRS 194.050, HB 799 [492, HB 516 Part IIA #42] of the 1990 [1988] GA
 EFFECTIVE: May 16, 1990
 NECESSITY AND FUNCTION: KRS 194.050 and HB 799 [516] authorizes the Secretary for Human Resources to adopt a schedule of reasonable fees covering the cost of annual inspections provided by the Cabinet for Human Resources and any local health department. This regulation sets forth a schedule of fees for inspectional services related to public swimming and bathing facilities.

Section 1. Fees for Inspections. For inspections conducted by the department or its representatives to determine compliance with

regulation 902 KAR 10:120 adopted by the cabinet pursuant to KRS 194.050, HB 492 and HB 516, public swimming and bathing facilities shall be subject to the payment of the following fees:

(1) Swimming and bathing facilities with a total water surface area of less than 1,000 square feet; or beach fronts of less than 150 linear feet - sixty (60) [fifty (50)] dollars per year.

(2) Swimming and bathing facilities with a total water surface area of 1,000 square feet or greater; or beach fronts of 150 linear feet or greater - \$120 [100] per year.

Section 2. Payment of Fees. (1) Fees shall be paid to the local health department having jurisdiction. Fees received by local health department shall be deposited in the Kentucky State Treasury in a trust and agency account for use solely in administering the program. Inspection fees shall be submitted annually prior to July 1. For newly constructed facilities such fees shall be initially submitted at the preopening inspection and at each July 1 date thereafter.

C. HERNANDEZ, M.D., Commissioner
 HARRY J. COWHERD, M.D., Secretary
 APPROVED BY AGENCY: May 7, 1990
 FILED WITH LRC: May 16, 1990 at 11 a.m.

STATEMENT OF EMERGENCY
902 KAR 10:130E

Emergency regulation 902 KAR 10:130E is necessary in order to implement the provisions of House Bill 799 by amending the current environmental health regulation. An ordinary administrative regulation amendment cannot be in effect in time to meet the effective date of July 1, 1990, for House Bill 799, which increases state permit and/or inspection service fees. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
 HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Local Health

902 KAR 10:130E. Licensing fee for septic tank servicing.

RELATES TO: KRS 211.972, HB 799 [516]
 STATUTORY AUTHORITY: KRS 194.050, 211.972, HB 799 [516 Part IIA #42] of the 1990 [1988] GA
 EFFECTIVE: May 16, 1990
 NECESSITY AND FUNCTION: KRS 194.050 and HB 799 [516] authorizes the Secretary for Human Resources to adopt a reasonable schedule of fees to cover all charges for health services provided by the Cabinet for Human Resources with respect to the servicing of septic tanks. The function of this regulation is to set forth the fees to be charged.

Section 1. All applications for a business license to service or maintain a septic tank, seepage pits, or cesspools shall be accompanied by a license fee of \$110 [ninety (90) dollars].

Section 2. All applications for a vehicle license to service or maintain septic tanks, seepage pits, or cesspools shall be accompanied by a license fee of thirty-five (35) [(30)] dollars for each vehicle.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: May 7, 1990
FILED WITH LRC: May 16, 1990 at 11 a.m.

STATEMENT OF EMERGENCY
902 KAR 45:110E

Emergency regulation 902 KAR 45:110E is necessary in order to implement the provisions of House Bill 799 by amending the current environmental health regulation. In order to eliminate unnecessary duplication other timely and necessary amendments to this regulation have been included. An ordinary administrative regulation amendment cannot be in effect in time to meet the effective date of July 1, 1990, for House Bill 799, which increases state permit and/or inspection service fees. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Local Health

902 KAR 45:110E. Inspection fees; permit fees; food plants, markets, warehouses and distributors, vending machine companies and machines.

RELATES TO: KRS 217.025, 217.035, 217.037, 217.125, 217.811

STATUTORY AUTHORITY: KRS 194.050, 217.125(2), 217.811, HB 799 [516 Part IIA #42] of the 1990 [1988] GA

EFFECTIVE: May 16, 1990

NECESSITY AND FUNCTION: KRS 217.125(2), 217.811, and HB 799 [516] authorizes the Secretary of Human Resources to provide by regulation a schedule of reasonable fees to be paid by food manufacturing plants, food storage warehouses, retail food markets, salvage distributors, salvage processing plants, and vending machine companies for inspectional activities carried out by the Cabinet for Human Resources. This regulation is to set forth the fee to be charged.

[Section 1. Definitions. (1) "Cabinet" means Cabinet for Human Resources.]

[(2) "Department" means Department for Health Services and local health departments having jurisdiction.]

Section 1. [2.] Fees for Inspections. (1) For inspections conducted by the department or its representatives to determine compliance with regulations adopted by the cabinet for salvage distributors and salvage processing plants, and to determine compliance with KRS 217.025, 217.035 and 217.037 applicable to food manufacturing plants and food storage warehouses, a fee of twenty-five (25) [(20)]

dollars per inspection hour not to exceed the total amount of \$300 [250] per year shall be assessed.

(2) With respect to retail food markets, for inspections conducted by the department or its representative to determine compliance with regulations adopted by the cabinet pertaining to adulteration, misbranding, packaging and labeling of food products pursuant to KRS 217.025, 217.035, 217.037 and 217.125, a fee of twenty-five (25) [(20)] dollars per inspection hour shall be assessed. In no event shall the fee exceed in any year the sum of seventy (70) [sixty (60)] dollars.

(3) With respect to vending companies, each application for a permit shall be accompanied by a fee of eighteen (18) [fifteen (15)] dollars for each vending commissary plus a fee for the total number of vending machines operated by the applicant as follows:

| | | |
|-----------------------|-----|---------------------|
| 1-25 machines | Fee | \$ <u>70</u> [60] |
| 26-50 machines | Fee | \$ <u>110</u> [95] |
| 51-100 machines | Fee | \$ <u>150</u> [125] |
| 101-150 machines | Fee | \$ <u>180</u> [150] |
| 151 and over machines | Fee | \$ <u>300</u> [250] |

Section 2. [3.] Payment of Fees. (1) Payment of fees shall be made to the local health department having jurisdiction. Fees received by local health departments shall be deposited in the Kentucky State Treasury.

(2) Inspection fees shall be due thirty (30) days from the date of the billing.

Section 3. [4.] Exemptions. State and local government agencies shall be exempt from the payment of fees.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: May 7, 1990
FILED WITH LRC: May 16, 1990 at 11 a.m.

STATEMENT OF EMERGENCY
902 KAR 45:120E

Emergency regulation 902 KAR 45:120E is necessary in order to implement the provisions of House Bill 799 by amending the current environmental health regulation. In order to eliminate unnecessary duplication other timely and necessary amendments to this regulation have been included. An ordinary administrative regulation amendment cannot be in effect in time to meet the effective date of July 1, 1990, for House Bill 799, which increases state permit and/or inspection service fees. The emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Local Health

902 KAR 45:120E. Inspection fees; permit fees; food service establishments, hotels, mobile home and recreational vehicle parks.

RELATES TO: KRS 219.031, 219.041, 219.330, 219.350

STATUTORY AUTHORITY: KRS 194.050, 219.041(4), 219.340, 219.350, HB 799 of the 1990 GA [516 Part IIA #42 of the 1988 GA]

EFFECTIVE: May 16, 1990

NECESSITY AND FUNCTION: KRS 219.041(4) and HB 799 [516] authorizes the Secretary for Human Resources to provide by regulation a schedule of reasonable fees to be paid by food service establishments and hotels, mobile home and recreational vehicle parks to cover the cost of inspection activities carried out by the Cabinet for Human Resources. This regulation is to set forth the fees to be charged.

[Section 1. Definitions. (1) "Cabinet" means Cabinet for Human Resources.]

[(2) "Department" means Department for Health Services and local health departments having jurisdiction.]

Section 1. [2.] Fees for Inspections. For inspections conducted by the department or its representative to determine compliance with regulations adopted by the cabinet pursuant to KRS 219.041, food service establishments and hotels shall be subject to the payment of the following fees:

(1) Hotels with twenty-five (25) rooms or less - thirty-five (35) [thirty (30)] dollars per year.

(2) Hotels with twenty-six (26) rooms or more - seventy (70) [sixty (60)] dollars per year.

(3) Permanent food service establishments with no seats or twenty-five (25) seats or less - forty (40) [thirty-five (35)] dollars per year.

(4) Permanent food service establishments with twenty-six (26) to fifty (50) seats - sixty (60) [fifty (50)] dollars per year.

(5) Permanent food service establishments with more than fifty (50) seats - seventy (70) [sixty (60)] dollars per year.

Section 2. [3.] Permit Fees for Hotels and Mobile Home and Recreational Vehicle Parks, and Food Service Establishments. (1) Each application for an annual permit to operate a food service establishment shall be accompanied by a fee of thirty-five (35) [thirty (30)] dollars.

(2) Applications for a permit to operate a temporary food service establishment shall be accompanied by a fee of eighteen (18) [fifteen (15)] dollars.

(3) Each application for an annual permit to operate a hotel, shall be accompanied by a fee as follows: Hotels - thirty-five (35) [thirty (30)] dollars per year.

(4) Each application for an annual permit to operate a mobile home or recreational vehicle park shall be accompanied by a fee as follows:

(a) Mobile home or recreational vehicle park with ten (10) spaces or less - seventy (70) [sixty (60)] dollars.

(b) Parks with more than ten (10) spaces - \$110 [ninety-five (95) dollars].

(5) Each application for a permit to construct or alter a mobile home or recreational vehicle park shall be accompanied by a fee of thirty-five (35) [thirty (30)] dollars.

Section 3. [4.] Payment of Fees. (1) Fees shall be paid to the local health department having jurisdiction. Fees received by local health departments shall be deposited in the Kentucky State Treasury. Inspection fees shall be submitted with the application for a permit to operate as required by KRS 219.021 or 219.340 as applicable.

Section 4. [5.] Exemptions. Private, parochial, and public school cafeterias or lunchroom facilities through the 12th grade and all facilities operated by the Cabinet for Human Resources or the Corrections Cabinet shall be exempt from the payment of inspection fees.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 7, 1990

FILED WITH LRC: May 16, 1990 at 11 a.m.

STATEMENT OF EMERGENCY

Emergency regulation 902 KAR 55:010E is necessary in order to assure conformity with the provisions of HB 799 which authorizes an increase in existing fees. An ordinary administrative regulation cannot suffice because the statute provides for renewal of licenses prior to the effective date of HB 799. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor

HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Community Safety

902 KAR 55:010E. Licensing of manufacturers and wholesalers.

RELATES TO: KRS Chapter 218A

STATUTORY AUTHORITY: KRS 194.050, 211.090, 218A.250, HB 799 [516 Part IIA #42] of the 1990 [1988] GA

EFFECTIVE: May 30, 1990

NECESSITY AND FUNCTION: KRS 218A.150, 218A.160 and 218A.170 authorizes the Cabinet for Human Resources to license manufacturers and wholesalers of controlled substances. It is the purpose of this regulation to establish uniform requirements for such licenses.

Section 1. State License Required of Manufacturers and Wholesalers. No person shall manufacture, wholesale, distribute, or repack any controlled substance in this state without having first obtained a license to do so from the Cabinet for Human Resources.

Section 2. Out-of-state Exemptions. Manufacturers, wholesalers, distributors, and repackers not located within the Commonwealth of Kentucky, but who are registered with the appropriate federal agency pursuant to the provisions of the Federal Comprehensive Drug

Abuse Prevention and Control Act of 1970 (P.L. 91-513: 84 Stat. 1236) and the regulations promulgated thereunder, are hereby exempted from the licensure requirements of this regulation and are authorized to operate as such in this state by virtue of their federal registration.

Section 3. Joint Venture Exemptions. Two (2) or more pharmacies, who engage in a joint venture for the purpose of purchasing drugs in order to effectuate a savings in the purchase price thereof and in which no profit is realized in the transaction by any of the participating pharmacies, are exempt from the licensure requirements of this regulation provided proper records of the transaction are maintained.

Section 4. Qualifications for Licensing. (1) No license shall be issued pursuant to this regulation unless and until the applicant has furnished proof satisfactory to the Cabinet for Human Resources:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character; and

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the

business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) A license issued pursuant to this regulation may be suspended or revoked for cause.

Section 5. License Fees; Renewals. All applications for a license under the provisions of this regulation shall be submitted to the Cabinet for Human Resources on forms furnished by the department and shall be accompanied by a license fee of \$240 [200]. All licenses shall expire on June 30th following date of issuance and be renewable annually thereafter upon payment of a renewal fee of \$175 [150] and shall be nontransferable.

Section 6. Codeine Registry. All wholesalers and manufacturers (including distributors and repackers) shall keep a separate codeine registry showing the following: date, registration number of recipient, name of recipient, address, name of preparation, and quantity.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 18, 1990

FILED WITH LRC: May 30, 1990 at 4 p.m.

REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The administrative regulations published in this section of the Administrative Register were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on June 12, 1990, and are not yet in effect.

**GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(As Amended)**

201 KAR 22:053. Code of ethical standards and standards of practice for physical therapists and physical therapists' assistants.

RELATES TO: KRS 327.040, 327.070

STATUTORY AUTHORITY: KRS 327.040(11), (12)

NECESSITY AND FUNCTION: KRS 327.040(11) and (12) authorize the Board of Physical Therapy to establish by regulation a code of ethical standards and standards of practice for physical therapists and physical therapist's assistants. This regulation establishes those standards which, if violated, are a basis for disciplinary action under KRS 327.070(9).

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

(1) "Board" means the Kentucky State Board of Physical Therapy.

(2) "Full time" means employment for forty (40) hours a week.

(3) "On-site supervision" means immediate physical accessibility within the same building.

(4) "Supportive personnel" means a person assisting in direct patient care who is not licensed or certified by the board to provide physical therapy.

Section 2. Code of Ethical Standards for the Physical Therapist and Physical Therapist's Assistant. Physical therapists and physical therapist's assistants shall:

(1) Respect the rights and dignity of all individuals;

(2) Maintain the confidentiality of patient information unless the patient or his appointed representative consents to its release;

(3) Provide accurate information to the consumer; and

(4) Report unethical, incompetent or illegal acts to the board.

Section 3. Standards of Practice for the Physical Therapist. When engaged in the practice of physical therapy, a physical therapist shall:

(1) Evaluate each patient. The patient shall be evaluated:

(a) Prior to initiation of any treatment;

(b) Upon receipt of a patient from another physical therapy service, facility or agency; and

(c) When requested by a referring professional.

(2) Refer the patient to other professionals or services when the treatment or service is beyond his scope of practice;

(3) Be responsible for the physical therapy record of each patient;

(4) Provide services that meet or exceed the generally accepted practice of the profession;

(5) Explain the plan of care to the patient, to others designated by the patient, and to

appropriate professionals;

(6) Make it clear to the patient that the patient has the right to choose any qualified professional or equipment supply companies if the physical therapist makes recommendations for such;

(7) Disclose in writing to each patient any financial interest or compensation or other value to be received by the referral source:

(a) For services provided by the physical therapist;

(b) For equipment rental or purchase; and

(c) For other services the physical therapist might recommend for the patient.

(8) Unless prohibited by law, as members of a business entity be allowed to pool or apportion fees received in accordance with any business agreement.

Section 4. Standards of Practice for the Physical Therapist's Assistant. When engaged in the practice of physical therapy the physical therapist's assistant shall:

(1) Provide services only under the supervision and direction of a physical therapist;

(2) Refuse to carry out procedures that he believes are not in the best interest of the patient or that he is not competent to provide by training or skill level;

(3) Initiate treatment only after evaluation by the physical therapist;

(4) Upon direction from the physical therapist, gather data relating to the patient's disability, but not determine the significance of the data as it pertains to the development of the plan of care;

(5) Refer to the physical therapist inquiries that require an interpretation of patient information related to rehabilitation potential;

(6) Comply with the plan of supervision established by the physical therapist; and

(7) Communicate with the physical therapist any change or lack of change which occurs in the patient's condition which may indicate the need for reevaluation.

Section 5. Standards for Supervision. When supervising the physical therapist's assistant and supportive personnel, the physical therapist shall:

(1) Prepare a written plan for the training and supervision of supportive personnel. The plan shall be reviewed annually and revised as necessary. The plan shall be readily available for review by all physical therapists and physical therapist's assistants who work with the supportive personnel and shall include:

(a) A list of clinical competencies of each supportive personnel;

(b) The method for monitoring and supervising care provided by supportive personnel; and

(c) The date and signature of the supervisor and supportive personnel governed by the plan.

(2) At all times, including all work locations, be limited to:

(a) Supervising no more than four (4) full-time physical therapist's assistants or supportive personnel; or

(b) The number of those persons providing part-time patient care for a period equivalent to that provided by four (4) full-time providers

of patient care.

(3) Be [solely] responsible for:

(a) Interpreting any referral;
(b) Conducting the initial physical therapy evaluation;

(c) Establishing reporting procedures to be followed by the physical therapist's assistant and supportive personnel;

(d) Evaluating the competency of physical therapist's assistants and supportive personnel;

(e) Supervising the physical therapist's assistant and supportive personnel;

(f) Reevaluating a patient after the earlier of every:

1. Twenty (20) physical therapy visits; or
2. Thirty (30) days following the initial evaluation or subsequent reevaluation.

(g) Reevaluating every ninety (90) days, with the physical therapist's assistant present, patients in:

1. A facility defined in 902 KAR 20:086 as an intermediate care facility (ICF) for the mentally retarded (MR) and developmentally disabled (DD); or

2. A school system.

(h) Reevaluating a patient whose medical condition has changed;

(i) Establishing discharge planning for patients who require continued physical therapy;

(j) Altering, extending, refusing or discontinuing treatment by the physical therapy service; and

(k) Insuring that when supportive personnel provide direct patient care that there is on-site supervision by a physical therapist or physical therapist's assistant.

Section 6. Standards for Documentation. The physical therapist is responsible for the physical therapy record of a patient. The physical therapy record shall consist of:

(1) The initial evaluation, a written report signed and dated by the physical therapist performing the evaluation which shall include:

(a) The patient's name, age and sex;
(b) Referral source, if appropriate;
(c) Pertinent medical and social history;
(d) Symptoms and date of onset;
(e) Medical diagnosis, if available;
(f) Subjective information;
(g) Appropriate objective testing;
(h) Precautions and contraindications;
(i) Problems, interpretation, assessment;

(j) Plan of care, including:

1. Treatment to be rendered;
2. Frequency and duration of treatment;
3. Referral to other professionals, if indicated;

4. Patient education and instruction; and

5. Measurable goals.

(2) Progress notes, which are written, signed and dated by the person rendering treatment, and countersigned and dated by the physical therapist when written by supportive personnel, physical therapist students, physical therapist's assistant students, or examination candidates. The progress notes shall include:

(a) A current record of treatment;
(b) Patient's response to treatment;
(c) Any factors affecting treatment; and
(d) Data obtained by all objective tests performed.

(3) Reevaluation, which is written, signed and dated by a physical therapist. If the physical therapist is treating the patient, these reports

may be incorporated into the progress notes. If a physical therapist's assistant or supportive personnel are treating the patient, the report shall be a separate entry into the record. A reevaluation shall include directly observed objective, subjective, and medical data necessary for the revision or reaffirmation of the plan of care and measurable goals.

(4) Discharge summary, which is the written, signed, and dated statement of the patient's physical therapy status upon discharge, including reference to previously established goals and program plan. A physical therapist's assistant may write the discharge summary which shall be countersigned by the responsible physical therapist. The discharge summary shall include:

(a) Data and reason for discharge;

(b) Objective data related to the initial evaluation and subsequent review;

(c) A complete and accurate summary of the patient's status at the time of discharge. Status includes functional ability, increase or limitation of range of motion, decrease or increase of pain, muscle power, general physical and mental condition including tolerance; and

(d) Discharge plan, which means any recommendations the physical therapist has regarding the need for continuing physical therapy.

(5) The correct designation following the signature of the person who has entered a statement(s) into the patient record shall be as follows:

(a) If written by a physical therapist or a physical therapist candidate granted a temporary permit by the board: "P.T.";

(b) If written by a physical therapist's assistant or a physical therapist's assistant examination candidate granted a temporary permit by the board: "P.T.A.";

(c) If written by supportive personnel: "P.T. Aide", or "Physical Therapy Aide"; and

(d) If written by students: "Physical Therapist Student" or "P.T. Student"; "Physical Therapist's Assistant Student" or "P.T.A. Student".

WALTER KIM CLEARY, Chairman

APPROVED BY AGENCY: April 6, 1990

FILED WITH LRC: April 12, 1990 at 11 a.m.

TOURISM CABINET

Department of Fish and Wildlife Resources
(As Amended)

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

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.180, 150.300, 150.340, 150.360, 150.370, 150.399, 150.400, 150.410, 150.415, 150.416, 150.417, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the hunting seasons, bag and possession limits for upland game birds, furbearers and animals on specified wildlife management areas and refuges. This regulation is necessary for the continued protection of these species and to insure a permanent and continued supply of wildlife resources for present and future residents of the state. The function of

this regulation is to provide for the prudent taking of upland game birds, furbearers and animals within reasonable limits based upon an adequate supply. This amendment is necessary because of changes in season dates and the opening or closure of certain wildlife management areas to hunting.

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

Section 2. Exceptions to Statewide Small Game Hunting Regulations for Wildlife Management Areas and Refuges. (1) West Kentucky Wildlife Management Area located in McCracken County.

(a) Quail and rabbit: November 1 through January 31 on Tracts 2, 3, 6 and 7; January 1 through 10 on Tracts 1, 4 and 5 [December 22 through 31 on Tracts 1 and 5; and January 1 through 10 on Tract 4].

(b) Squirrel (gray and fox): from opening of Western zone squirrel season through October 31 on Tracts 1, 2, 3, 4, 5 and 6. November 1 through December 31 on Tract 6 only.

(c) Raccoon and opossum: tracts 1 through 6 only. There is no shakeout season on this area.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(e) All tracts designated by numbers followed by the letter "A" are closed to hunting.

(f) No rifles, or ball or slug ammunition of any type shall be allowed for taking small game.

(g) Unleashed dogs are prohibited April 1 through the opening of Western Zone squirrel season, except during permitted field trials.

(h) Tract 6 is closed to vehicular traffic February 1 through April 16.

(i) There shall be no upland game bird, small game or furbearer hunting, trapping or unleashed dogs allowed during the deer quota hunts.

(2) Land Between the Lakes Wildlife Management Area (LBL) season through September 23; December 1 through January 31; and during deer archery season only by legally licensed and equipped deer archery hunters.

(a) Squirrel (gray and fox): from opening of Western zone squirrel season through September 28 [22], December 1 through January 31; and during deer archery season only by legally licensed and equipped deer archery hunters.

(b) Quail: December 1 through the last day of February.

(c) Rabbit: December 1 through the last day of February.

(d) Raccoon and opossum: Tuesday, Thursday, Friday and Saturday nights only during the period December 1 through January 31. Daily bag limit one (1) person per night. Raccoon and opossum hunters shall check in and out nightly at designated check station. Harvest report cards shall be displayed in vehicle windshield while hunting and submitted at the check station upon completion of each night's hunt. Season shall [will] be closed in some hunt areas on dates listed in the LBL Hunting Guide.

(e) Field trials: September 1 through March 31. Scheduled basis only. Written requests shall be received by LBL at least ten (10) days prior to the proposed hunt date. Approval shall be obtained from LBL and the Department of Fish and Wildlife Resources District Supervisor. Field trials shall be recognized club hunts and each participant shall be on a club roster for that

hunt.

(f) Fox chasing: from sunset to sunrise; third Saturday in August through the third Saturday in September [October 1] south of Highway 68 to state line.

(g) Fox (gray and red) and bobcat taking: gun and archery on December 1 through January 31.

(h) Groundhog [Woodchuck]: daylight hours only. March 15 through March 31 and during the LBL deer archery season only by legally licensed and equipped deer archery hunters. All harvested animals shall be removed from the area. Gun hunting is prohibited in Hunt Area 8 and in that portion of Hunt Area 9 designated as the ORV area.

(i) Coyote: daylight hours only by legally licensed hunters during any LBL open season with weapons specified for that season.

(j) Bird dog, beagle and raccoon hound training season: during the entire month of October only in areas designated in the LBL Hunting and Angling Guide.

(k) All dogs shall wear a collar bearing the owner's name, address, and telephone number. Dogs shall not be used for hunting October 1 through November 11, except in authorized field trials and designated dog training Hunt Areas.

(l) Trapping for furbearers (including bobcats).

1. Only those persons who are selected by a drawing are permitted to trap furbearers on LBL.

2. Authorized trappers shall [may] trap in assigned areas only and shall report their harvest in accordance with LBL instructions.

3. Trapping season: January 7 [December 26] through January 20 [8] for all furbearers.

4. Trapping devices. No. 3 or smaller foothold traps, padded foot-hold traps and snares without self-locking devices are permitted. The jaws of No. 1 1/2 and larger foothold traps used on land shall be offset three-sixteenths (3/16) inch or be padded foot-hold traps [of the soft catch-type trap]. Water sets are restricted to No. 3 or smaller foothold traps, padded foot-hold traps. No. 330 or smaller Conibear-type traps, and nonlocking snares.

(m) Bobcat: bobcats shall be taken by gun, archery or trapping.

1. The limit is two (2) bobcats per person per season by any method.

2. The bobcat harvest quota is twenty-four (24). Should it be determined that the quota of twenty-four (24) bobcats shall be filled prior to January 31, the season shall close. Notice shall be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

3. All bobcats shall be tagged before leaving LBL and within forty-eight (48) hours of harvest. Bobcats shall be tagged by LBL personnel upon presentation of the entire animal, skinned or unskinned, at LBL check stations, Golden Pond Administrative Office, or Patrol Office.

4. Bobcats shall be taken by hunting or by calling during daylight hours only. Callers shall use only hand or mouth operated calls.

(n) [(m)] Weapons restrictions. The use of crossbows, center-fire rifles, center-fire handguns, and shotguns with slugs or shot larger than BBs is prohibited for the taking of all species listed in this subsection except that groundhogs [woodchucks] may be taken with center-fire rifles during the specified spring season.

(3) Reelfoot National Wildlife Refuge located

in Fulton County.

(a) Squirrel (gray and fox): fourth Saturday in August through October 15 only in areas designated by signs as open to public hunting.

(b) Raccoon: four (4) consecutive nights beginning on the last Wednesday in September and four (4) consecutive nights beginning on the first Wednesday in October on the Long Point Refuge unit, with hunting allowed only during the hours of 7:30 p.m. to 12 midnight. No bag or possession limits.

(c) Hunters shall check in and out at designated check stations.

(d) No other hunting is permitted except as authorized by other applicable regulations.

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

(a) Areas designated by signs are closed to hunting.

(b) The wooded area south of Terrell Landing Road and designated by signs reading "Wildlife Management Area for Public Hunting" is open in conjunction with other applicable seasons.

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

(a) This area is closed to all hunting except dove and squirrel.

(b) Unleashed dogs are prohibited April 1 through the opening of the Western Zone squirrel season, except during permitted field trials.

(c) Furbearer shall be taken by trapping only. All trappers shall obtain written permission from the area manager.

(6) Curtis Gates Lloyd/Mullins Wildlife and Recreation Area located in Grant County.

(a) Areas closed to hunting are designated by refuge signs.

(b) Quail and rabbit: November 1 through January 31 except during the deer gun season.

(c) Unleashed dogs are prohibited April 1 through the opening of the Western Zone squirrel season, except during permitted field trials.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

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

(a) [Except for the purpose of hunting during an open hunting season,] Unleashed dogs are prohibited March [February] 1 through August 31 except during permitted field trials.

(b) Breech-loading firearms shall be unloaded in both the chamber and magazine unless possessed by authorized personnel.

(8) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. There shall be no hunting on [Mondays or] Tuesdays or Wednesdays except when [Monday or] Tuesday or Wednesday is a federal holiday or as follows: December 18-19 [22-23] and 26 [29-30]. There shall be no hunting on December 25 and January 1.

(a) Seasons, bag and possession limits.

1. Squirrel (gray and fox): August 18 [17] through September 21 [22], November 22 [23] through December 7 [8], December 8 [9] through 31 on selected areas; January 4 through January 31 [February 26, March 1 through 31].

2. Quail: November 22 [23] through December 7 [8], December 8 [9] through 31 on selected

areas; January 3 [4] through February 28 [26].

3. Rabbit: November 22 [23] through December 7 [8], December 8 [9] through 31 on selected areas; January 3 [4] through February 28 [26]; bag limit five (5); possession limit ten (10).

4. Raccoon, gray fox and opossum: taking with gun or dogs, November 22 [23] through December 7 [8], December 8 [9] through 31 on selected areas. January 3 [4] through February 28 [26]; limit one (1) per person.

5. Coyote and groundhog [woodchuck]: May 13 [11] through August 17 [14] and during any other authorized hunt.

6. Red fox: November 22 [23] through December 7 [8], December 8 [9] through 31 on selected areas. January 3 [4] through 28 [29].

(b) Permission shall be obtained for each hunt at building #6645 and hunters shall stay within their assigned area. A hunting permit costing fifteen (15) dollars is required.

(c) All hunters between the ages of twelve (12) and eighteen (18) shall possess a valid hunter safety certificate.

(9) Clay Wildlife Management Area located in Nicholas County.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: October 1 through December 31.

(c) Squirrel (gray and fox): First Saturday in September [15] through December 31.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(e) Unleashed dogs are prohibited March [April] 1 through August 31 except during permitted field trials.

(f) There shall be no upland game bird, small game or furbearer hunting, trapping or unleashed dogs allowed during deer quota hunts.

(10) Pine Mountain Wildlife Management Area located in Letcher County. Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(11) Dewey Lake Wildlife Management Area in Floyd County, Paintsville Lake Wildlife Management Area in Johnson and Morgan Counties, Fishtrap Lake Wildlife Management Area in Pike County and Redbird Wildlife Management Area in Clay and Leslie Counties.

(a) Squirrel (gray and fox): First Saturday in September [15] through December 31.

(b) Grouse: October 1 through December 31.

(c) Quail and rabbit: November 1 through December 31.

(d) Furbearer: Closes December 31.

(e) Closed to all other hunting except as authorized by other applicable regulations.

(f) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed when these areas are open to deer gun hunting.

(g) Unleashed dogs are prohibited March [January] 1, through August 31 except during permitted field trials.

(h) Shotguns only.

(i) Shakeout season is closed on these areas.

(12) Beaver Creek Wildlife Management Area located in McCreary and Pulaski Counties, Mill Creek Wildlife Management Area in Jackson County and Cane Creek Wildlife Management Area in Laurel County and all private in-holdings within these areas.

(a) Squirrel (gray and fox): First Saturday in September [15] through December 31.

(b) Grouse: October 1 through December 31.

(c) Quail and rabbit: November 1 through

December 31.

(d) Furbearer: December 5 through December 31. All trappers shall obtain and complete a harvest survey form obtained from the area manager.

(e) Closed to all other hunting except as authorized by other applicable regulations.

(f) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed when these areas are open to deer gun hunting.

(g) Unleashed dogs are prohibited March [February] 1 through August 31 except during permitted field trials.

(h) Shakeout season is closed on these areas.

(13) Higginson-Henry Wildlife Management Area located in Union County.

(a) Quail and rabbit: November 1 through January 31.

(b) Unleashed dogs are prohibited April 1 through the opening of the Western Zone squirrel season except during permitted field trials.

(c) All hunters and dog trainers shall check in and out daily at the designated check station.

(d) There shall be no upland game bird, small game or furbearer hunting, trapping or unleashed dogs allowed during deer quota hunts.

(14) Yellowbank Wildlife Management Area located in Breckinridge County.

(a) Quail and rabbit: November 1 through January 31.

(b) All hunters and dog trainers shall check in and out daily at the designated check station.

(c) Unleashed dogs are prohibited April 1 through the opening of the Western Zone squirrel season except during permitted field trials.

(d) There shall be no upland game bird, small game or furbearer hunting, trapping or unleashed dogs allowed during deer quota hunts.

(e) Areas within Tract 1 designated by signs are closed to all hunting, fishing, boating and trespassing from October 15 through March 15.

(15) Kleber Wildlife Management Area located in Owen and Franklin Counties.

(a) Quail and rabbit: November 1 through January 31.

(b) All hunters and dog trainers shall check in and out daily at the designated check station.

(c) Unleashed dogs are prohibited April 1 through the opening of the Western Zone squirrel season except during permitted field trials.

(d) There shall be no upland game bird, small game or furbearer hunting, trapping or unleashed dogs allowed during deer quota hunts.

(16) Westvaco Public Hunting Areas. Persons hunting on Westvaco Public Hunting Areas shall possess a valid Westvaco Hunting Permit.

(17) Sloughs Wildlife Management Area located in Henderson and Union Counties. Frank Sauerheber Unit: areas designated by signs are closed to all hunting, fishing, boating and trespassing from October 15 through March 15.

(18) Peal Wildlife Management Area located in Ballard County.

(a) Squirrel (gray and fox): third Saturday in August through the Friday before the deer gun season and the day following the deer gun season through December 31.

(b) Furbearer hunting: twenty (20) day taking season commencing the day following the deer gun season. There is no shakeout season on this area.

(c) Furbearer trapping: December 1 through 10; water sets only; trappers selected by drawing conducted by the area manager.

(d) Quail and rabbit: November 1 through January 31.

(e) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during the deer gun season.

(19) Big South Fork National River and Recreation Area located in McCreary County.

(a) Squirrel (gray and fox): first Saturday in September [15] through December 31.

(b) Grouse: October 1 through December 31.

(c) Quail and rabbit: November 1 through December 31.

(d) Unleashed dogs are prohibited March [February] 1 through August 31 except during permitted field trials.

(e) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during the deer gun season.

(20) Taylorsville Lake Wildlife Management Area in Spencer, Anderson and Nelson Counties.

(a) Areas closed to all hunting, fishing, boating and trespassing are designated by refuge signs.

(b) Quail and rabbit: November 1 through January 31 [except during the deer gun season].

(c) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during the deer quota hunts.

(21) Fleming Wildlife Management Area located in Fleming County.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: October 1 through December 31.

(c) Squirrel (gray and fox): first Saturday in September [15] through December 31.

(d) Unleashed dogs are prohibited March [February] 1 through August 31 except during permitted field trials.

(e) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during the deer gun season.

(22) Grayson Lake Wildlife Management Area in Carter and Elliott Counties.

(a) Areas designated by signs are closed to hunting. [The entire management area, excluding the areas west of KY 1496 and east of the area formed by the line created by Bruin Creek and that section of the Little Sandy River (Grayson Lake) extending north from the confluence of Bruin Creek, is open to hunting. The open area includes the "Coon Eye" and Gimlet and Little Gimlet Creek portions of the area.]

(b) Quail and rabbit: November 1 through December 31.

(c) Grouse: October 1 through December 31.

(d) Squirrel (gray and fox): first Saturday in September [15] through December 31.

(e) Unleashed dogs are prohibited March [February] 1 through August 31 except during permitted field trials.

(f) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during deer quota hunts.

(g) All hunters and dog trainers shall check in and out daily at a designated check station.

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

(24) Lake Cumberland Wildlife Management Area - All Kentucky Department of Fish and Wildlife Resources managed lands on the north side of Lake Cumberland.

(a) Grouse: October 1 through December 31.

(b) Quail and rabbit: November 1 through December 31.

(c) Unleashed dogs are prohibited March [February] 1 through August 31 except during permitted field trials.

(d) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during deer gun season.

(25) Green River Lake Wildlife Management Area in Taylor and Adair Counties.

(a) Quail and rabbit: November 1 through January 31.

(b) Unleashed dogs are prohibited March [February] 1 through August 31 except during permitted field trials.

(c) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during deer gun season.

(26) Barren River Wildlife Management Area in Allen and Barren Counties and Nolin Reservoir Wildlife Management Area in Edmonson, Grayson and Hart Counties.

(a) Quail and rabbit: November 1 through January 31.

(b) There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during deer gun season.

(27) Yatesville Wildlife Management Area located in Lawrence County; all hunters and dog trainers shall check in and out daily at a designated check station. [Nolin Reservoir Wildlife Management Area in Edmonson, Grayson and Hart Counties.]

[(a) Quail and rabbit: November 1 through January 31.]

[(b) There shall be no small game or furbearer hunting or trapping or unleashed dogs allowed during deer gun season.]

(28) Daviess County Wildlife Management Area located in Daviess County.

(a) Area closed to hunting and trapping for upland game birds, small game and furbearers.

(b) Unleashed dogs are prohibited April 1 through the opening of the Western Zone squirrel season except during permitted field trials.

(29) Fort Knox Wildlife Management Area located in Bullitt, Meade and Hardin Counties.

(a) Furbearer; trapping is prohibited.

(b) Unleashed dogs are prohibited April 1 through the opening of the Western Zone squirrel season except during permitted field trials.

(c) Area requirements.

1. Permission to hunt shall be obtained for each hunt at the hunt control office.

2. There shall be no upland game bird, small game or furbearer hunting or trapping or unleashed dogs allowed during deer gun hunts.

3. Hunters shall stay in their assigned areas.

4. All hunters thirty-seven (37) years of age and younger shall possess a valid hunter safety certificate.

5. Pistols, center fire rifles and crossbows are prohibited.

6. Vehicles are prohibited off maintained roads, except as otherwise authorized.

7. All firearms shall be unloaded while in a vehicle, being carried in a nonhunting area, during nonhunting hours or after a hunter has taken the legal game bag limit.

DON R. McCORMICK, Commissioner

MARY RAY OAKEN, Secretary

DAVID GODBY, Chairman

APPROVED BY AGENCY: March 5, 1990

FILED WITH LRC: April 12, 1990 at 1 p.m.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(As Amended)

902 KAR 100:010. Definitions.

RELATES TO: KRS 211.842 to 211.852, 211.990(4)
STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844

NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS 211.844 to provide by regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The purpose of this regulation is to provide for definitions as applicable to other Cabinet for Human Resources radiation regulations.

Section 1. Definitions. As used in these regulations, these terms have the definitions set forth below:

(1) "A₁" and "A₂."

(a) "A₁" means the maximum activity of special form radioactive material permitted in a Type A package;

(b) "A₂" means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package;

(c) These values are either listed in 902 KAR 100:070, Section 21, or may be derived in accordance with the procedure prescribed in 902 KAR 100:070, Section 20.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one (1) MeV. It includes, but is not limited to, the cyclotron, synchrotron, synchrocyclotron, betatron, linear accelerator, and Van de Graaff electrostatic generator.

(3) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

(4) "Act" means KRS 211.842 to 211.852.

(5) "Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used or stored.

(6) [(5)] "Agreement state" means any state with which the United States Nuclear Regulatory Commission or the United States Atomic Energy Commission has entered into an effective agreement under subsection 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(7) [(6)] "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, mists, vapors, or gases.

(8) [(7)] "Airborne radioactivity area" means:

(a) Any room, enclosure, or operating area in which airborne radioactive material exists in concentrations in excess of the amounts specified in Table 1, Column 1, of 902 KAR 100:025; or

(b) Any room, enclosure, or operating area in which airborne radioactive material exists in concentrations which, averaged over the number of hours in any week during which individuals are in the area, exceed twenty-five (25) percent of the amounts specified in Table 1, Column 1, of 902 KAR 100:025.

(9) [(8)] "Aluminum equivalent" means the

thickness of aluminum affording the same attenuation, under specified conditions, as the material in question.

(10) [(9)] "Analytical x-ray systems" means any system which utilizes x-rays for the examination of the structure of materials. This includes, but is not limited to, all types of x-ray diffraction and spectrographic equipment.

(11) "Area of use" means a portion of a physical structure that has been set aside for the purpose of receiving, using or storing radioactive material.

(12) [(10)] "As low as reasonably achievable (ALARA)" means as low as is reasonably achievable taking into account the state of technology, and the economics of improvement in relation to benefits to the public health and safety and in relation to the utilization of atomic energy in the public interest.

(13) [(11)] "Attenuation" means the reduction of exposure rate upon passages of radiation through matter.

(14) [(12)] "Attenuation block" means a block or stack, having dimensions twenty (20) cm by twenty (20) cm by three and eight-tenths (3.8) cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(15) "Authorized user" means a practitioner of the healing arts who is identified as an authorized user on a cabinet, U.S. Nuclear Regulatory Commission or another agreement state license that authorizes the medical use of radioactive material.

(16) [(13)] "Beam limiting device" (collimator) means a device which provides a means to restrict the dimensions of the x-ray field.

(17) [(14)] "Brachytherapy" means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(18) [(15)] "Broker" (waste broker) means any person who takes possession of low-level waste solely for the purposes of consolidation and shipment.

(19) [(16)] "By-product material" means:

(a) Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

(20) [(17)] "Cabinet" means Cabinet for Human Resources, or its duly authorized representatives.

(21) [(18)] "Cabinet x-ray systems" means an x-ray system with the x-ray tube installed or used in a permanent enclosure in which the enclosure is intended to contain at least that portion of the material being irradiated. The enclosure may be the architectural structure or may be independent of the architectural structure, but in either case, the structure of the enclosure must provide attenuation of the radiation to meet the requirements of 902 KAR 100:105, relating to the possession, use, and operation of x-ray systems, and must exclude personnel from its interior during the generation of x-radiation. This definition does not include x-ray systems used by licensed

practitioners of the healing arts.

(22) [(19)] "Calendar quarter" means not less than twelve (12) consecutive weeks nor more than fourteen (14) consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged so that no day is included in more than one (1) calendar quarter and no day in any one (1) year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method observed by him of determining calendar quarters for purposes of these regulations except at the beginning of a calendar year.

(23) [(20)] "Calibration" means the determination of:

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(24) [(21)] "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

(25) [(22)] "Certified components" means components of x-ray systems which are subject to regulations promulgated under P.L. 90-602.

(26) [(23)] "Certified system" means any x-ray system which has one (1) or more certified component(s).

(27) [(24)] "CFR" means Code of Federal Regulations.

(28) [(25)] "Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, push buttons, and other hardware necessary for manually setting the technique factors.

(29) [(26)] "Cooling curve" means the graphical relationship between heat units stored and cooling time.

(30) [(27)] "Curie" means a quantity of radioactivity. One (1) curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} disintegrations per second (dps). Commonly used submultiples of the curie are the millicurie and the microcurie. One (1) millicurie (mCi) = 0.001 curie = 3.7×10^7 dps. One (1) microcurie (uCi) = 0.000001 curie = 3.7×10^4 dps.

(31) [(28)] "Dead man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(32) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. The source may also be used for other purposes.

(33) [(29)] "Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(34) [(30)] "Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

(35) [(31)] "Diagnostic-type protective tube housing" means an x-ray tube housing so constructed that the leakage radiation measured at a distance of one (1) meter from the source cannot exceed 100 milliroentgens in one (1) hour when the tube is operated at its maximum continuous rated current for the maximum tube potential.

(36) [(32)] "Direct scatter radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam. (See also "scattered radiation").

(37) [(33)] "Disposal" means the disposition of waste as authorized by 902 KAR 100:021.

(38) [(34)] "Dose" means absorbed dose or dose equivalent as appropriate:

(a) "Absorbed dose" is the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special unit of absorbed dose is the rad (see "Rad").

(b) "Dose equivalent" is a quantity that expresses on a common scale for all radiation a measure of the postulated effect on a given organ. It is defined as the absorbed dose in rads times certain modifying factors. The unit of dose equivalent is the rem (see "Rem").

(39) [(35)] "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that from the time of intake the period of exposure to retained material will not exceed fifty (50) years.

(40) [(36)] "Entrance exposure rate" means the roentgens per unit time at the point where the center of the useful beam enters the patient.

(41) [(37)] "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(42) [(38)] "Exposure" means the quotient of dQ by dm where dQ is the absolute value of the total charge of the ions of one (1) sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass dm are completely stopped in air. (The special unit of exposure is the roentgen (R).) Exposure also means one (1) or more irradiations of a person for a healing arts purpose.

(43) [(39)] "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(44) [(40)] "Field station" means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

(45) [(41)] "Filter" is the material in the useful beam which usually absorbs preferentially the less penetrating radiations.

(a) "Inherent filtration" means the filter permanently in the useful beam. It includes the window of the x-ray tube and any permanent tube enclosure.

(b) "Added filter" means the filter added to the inherent filtration.

(c) "Total filter" means the sum of the inherent and added filters.

(46) [(42)] "Fissile material" means any special nuclear material consisting of or containing one (1) or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235. Neither natural or depleted uranium is fissile material. (Cabinet jurisdiction extends only to special nuclear material if quantities are not sufficient to form a critical mass as defined in this regulation.)

(a) Fissile Class I: a package which may be transported in unlimited numbers and in any arrangement, and which requires no nuclear criticality safety controls during transportation. A transport index is not assigned for purposes of nuclear criticality safety but may be required because of external radiation levels.

(b) Fissile Class II: a package which may be transported together with other packages in any arrangement but, for criticality control, in numbers which do not exceed an aggregate transport index of fifty (50). These shipments require no other nuclear criticality safety control during transportation. Individual packages may have a transport index not less than 0.1 and not more than ten (10).

(47) [(43)] "Fluoroscopic imaging assembly" means a component which comprises a reception system in which x-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks if any, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

(48) [(44)] "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(49) [(45)] "Generator" (waste generator) means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity.

(50) [(46)] "Half-value layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half (1/2) of its original value. In this definition the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(51) [(47)] "High radiation area" means any area, accessible to individuals, in which there exists radiation at such levels that a major portion of the body could receive in any one (1) hour a dose in excess of 100 millirems.

(52) [(48)] "Human use" means the internal or external administration of radiation or radioactive materials to human beings.

(53) [(49)] "Image intensifier" means a device which converts instantaneously by means of photoemissive surfaces and electronic circuitry an x-ray pattern into a light pattern of greater intensity than would have been produced by the original x-ray pattern.

(54) [(50)] "Image receptor" means any device such as a fluorescent screen or radiographic film which transforms incident radiation either into a visual image or into another form which can be made into a visual image by further transformations.

(55) [(51)] "Individual" means any human being.

(56) [(52)] "Industrial radiography" means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation.

(57) [(53)] "Injection tool" means a device used for controlled subsurface injection of radioactive tracer material.

(58) [(54)] "Inspection" means an examination

or observation including but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, and requirements of the cabinet.

(59) [(55)] "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(60) [(56)] "Kilovolt peak (kVp)" means the crest value in kilovolts of the potential difference of a pulsating potential generator. When only one-half (1/2) of the wave is used, the value refers to the useful half of the wave.

(61) [(57)] "Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(62) [(58)] "Leakage technique factors" means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They are defined as follows:

(a) For capacitor energy storage equipment, the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being ten (10) milliampere seconds (mAs) or the minimum obtainable from the unit, whichever is larger.

(b) For field emission equipment rated for pulsed operation, the maximum rated number of x-ray pulses in an hour for operation at the maximum rated peak tube potential.

(c) For all other equipment, the maximum rated continuous tube current for the maximum rated peak tube potential.

(63) [(59)] "License" means a license issued by the cabinet in accordance with these regulations.

(64) [(60)] "Licensed material" means radioactive material received, possessed, used, or transferred under a general or specific license issued by the cabinet pursuant to these regulations.

(65) [(61)] "Licensee" means any person who is licensed by the cabinet in accordance with these regulations and the Act.

(66) [(62)] "Logging assistant" means any individual who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who uses survey instruments in well-logging activities.

(67) [(62)] "Logging supervisor" means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

(68) [(63)] "Logging tool" means a device used subsurface to perform well-logging.

(69) [(64)] "Low specific activity material" means any of the following:

(a) Uranium or thorium ores and physical or chemical concentrates of those ores;

(b) Unirradiated natural or depleted uranium or unirradiated natural thorium;

(c) Tritium oxide in aqueous solutions provided the concentration does not exceed five (5.0) millicuries per milliliter;

(d) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents does not exceed:

1. 0.0001 millicurie of radionuclides for which the A_2 quantity in 902 KAR 100:070 is not more than 0.05 curie;

2. 0.005 millicurie of radionuclides for which the A_2 quantity in 902 KAR 100:070 is more than 0.05 curie, but not more than one (1) curie; or

3. 0.3 millicurie of radionuclides for which the A_2 quantity in 902 KAR 100:070 is more than one (1) curie.

(e) Objects of nonradioactive material externally contaminated with radioactive material, provided that the radioactive material is not readily dispersible and the surface contamination, when averaged over an area of one (1) square meter, does not exceed 0.0001 millicurie (220,000 disintegrations per minute) per square centimeter of radionuclides for which the A_2 quantity in 902 KAR 100:070 is not more than 0.05 curie, or 0.001 millicurie (2,200,000 disintegrations per minute) per square centimeter for other radionuclides.

(70) [(65)] "Low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in Section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(71) "Management" means the chief executive officer or that individual's designee.

(72) "Medical institution" means an organization in which several medical disciplines are practiced.

(73) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation therefrom, to humans in the practice of the healing arts.

(74) [(66)] "Microscopic analytical x-ray equipment" means any device which utilizes x-rays for examining the microscopic structure of materials. This includes all types of x-ray diffraction and spectrographic equipment.

(75) "Misadministration" means the administration of:

(a) A radiopharmaceutical or radiation from a sealed source other than that one intended;

(b) A radiopharmaceutical or radiation to the wrong patient;

(c) A radiopharmaceutical or radiation by a route of administration other than the intended by the prescribing physician;

(d) A diagnostic dosage of a radiopharmaceutical differing from the prescribed dosage by more than fifty (50) percent;

(e) A therapeutic dosage of a radiopharmaceutical differing from the prescribed dosage by more than ten (10) percent; or

(f) A therapeutic radiation dose from a sealed source such that errors in the source calibration, time of exposure, or [and] treatment geometry resulted in a calculated total treatment dose differing from the final prescribed total treatment dose by more than ten (10) percent.

(76) [(67)] "Mineral logging" means any logging performed for the purpose of mineral exploration other than oil or gas.

(77) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

(78) [(68)] "Occupational dose" means exposure of an individual to radiation:

(a) In a restrictive area; or

(b) In the course of employment in which the individual's duties involve exposure to

radiation; provided, that occupational dose shall not be deemed to include any exposure of an individual to radiation for the purpose of medical diagnosis or medical therapy of such individual.

(79) "Output" means the exposure rate, dose rate, or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(80) [(69)] "Normal form radioactive material" means radioactive material which has not been demonstrated to qualify as "special form radioactive material."

(81) [(70)] "Operating procedures" means detailed written instructions including but not limited to the normal operation of equipment and movable shielding, closing of interlock circuits, manipulation of controls, radiation monitoring procedures for personnel and areas, testing of interlocks, and recordkeeping requirements.

(82) [(71)] "Package" means the packaging together with its radioactive contents as presented for transport.

(83) [(72)] "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 902 KAR 100:070. It may consist of one (1) or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

(84) [(73)] "Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

(85) [(74)] "Permanent radiographic installation" means an installation or structure designed or intended for radiography and in which radiography is regularly performed.

(86) [(75)] "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state or any other state, or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing.

(87) [(76)] "Personal supervision" means guidance and instruction by the supervisor who is physically present at the job site and watching the performance of the operation in such proximity that contact can be maintained and immediate assistance given as required.

(88) [(77)] "Personnel monitoring equipment" means a device designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual (e.g., film badges, pocket dosimeters, and thermoluminescent dosimeters (TLD)).

(89) [(78)] "Physician" means an individual licensed to practice medicine or osteopathy in this state.

(90) [(79)] "Protective apron" means an apron made of radiation absorbing materials of at least 0.25 mm lead equivalency. This requirement may be assumed to have been met if the HVL of the apron is not less than 0.25 mm lead at normal operating voltages.

(91) [(80)] "Protective barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure.

(a) "Primary protective barrier" means a barrier sufficient to attenuate the useful beam

to the required degree.

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(92) [(81)] "Protective glove" means a glove made of radiation absorbing materials of at least 0.25 mm lead equivalency. This requirement may be assumed to have been met if the HVL of the glove is not less than 0.25 mm lead at normal operating voltages.

(93) [(82)] "Qualified expert" means an individual who has demonstrated to the satisfaction of the cabinet that he possesses the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs.

(94) [(83)] "Rad" means the special unit of absorbed dose. One (1) rad equals 0.01 joule per kilogram of material; for example, if tissue is the material of interest, then one (1) rad equals 100 ergs per gram of tissue.

(95) [(84)] "Radiation" means ionizing radiation which includes any or all of the following: gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, high-speed protons, and other atomic particles. This definition does not include nonionizing radiations such as sound, microwave, radio wave, or visible, infrared, or ultraviolet light.

(a) "Leakage radiation" means all radiation coming from within the tube or source housing except the useful beam.

(b) "Scattered radiation" means radiation that, during passage through matter, has been deviated in direction. It may also have been modified by a decrease in energy.

(c) "Useful radiation" means radiation which passes through the window, aperture, cone, or other beam limiting device of the tube or source housing. Sometimes called "primary beam."

(d) "Stray radiation" means the sum of leakage and scattered radiation.

(96) [(85)] "Radiation area" means any area, accessible to individuals, in which there exists radiation at such levels that a major portion of the body could receive in any one (1) hour a dose in excess of five (5) millirems, or in any five (5) consecutive days a dose in excess of 100 millirems.

(97) [(86)] "Radiation machine" means any device capable of producing radiation except devices which produce radiation only from radioactive material.

(98) [(87)] "Radiation safety officer" means one who has the knowledge and responsibility to apply appropriate radiation protection regulations.

(99) [(88)] "Radioactive marker" means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.

(100) [(89)] "Radioactive material" means any solid, liquid, or gas, which emits radiation spontaneously.

(101) [(90)] "Radioactivity" means the disintegration of unstable atomic nuclei by the emission of radiation.

(102) [(91)] "Radiographer" means any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of these

regulations and all license conditions.

(103) [(92)] "Radiographer's assistant" means any individual who, under the personal supervision of a radiographer, uses sources of radiation, related handling tools, or survey instruments in industrial radiography.

(104) [(93)] "Radiographic exposure device" means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed, from a shielded to unshielded position for purposes of making a radiographic exposure.

(105) [(94)] "Registrant" means any person who is registered with the cabinet and is legally obligated to register with the cabinet pursuant to these regulations.

(106) [(95)] "Registration" means registration with the cabinet in accordance with these regulations.

(107) [(96)] "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189.

(108) [(97)] "Rem" means a special unit of dose equivalent. One (1) millirem (mrem) = 0.001 rem. For the purposes of these regulations, any of the following is considered to be equal to one (1) rem:

(a) An exposure of one (1) roentgen due to x or gamma radiation;

(b) An absorbed dose of one (1) rad due to x, gamma, or beta radiation;

(c) An absorbed dose of 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye;

(d) An absorbed dose of one-tenth (0.1) rad due to neutrons or high energy protons. If it is more convenient to measure the neutron flux, or equivalent, than to determine the neutron dose in rads, one (1) rem of neutron radiation may, for purposes of these regulations, be assumed to be equivalent to fourteen (14) million neutrons per square centimeter incident upon the body; or, if there exists sufficient information to estimate with reasonable accuracy the approximate distribution in energy of the neutrons, the incident number of neutrons per square centimeter equivalent to one (1) rem may be estimated from the following table:

Neutron Flux Dose Equivalence

| Neutron energy (MeV) | Number of neutrons per square centimeter for a dose equivalent of 1 rem (neutrons/square cm) | Average flux to deliver 100 mrem in 40 hrs. (neutrons/square cm per second) |
|----------------------|--|---|
| Thermal | 970×10^6 | 670 |
| 0.0001 | 720×10^6 | 500 |
| 0.005 | 820×10^6 | 570 |
| 0.02 | 400×10^6 | 280 |
| 0.1 | 120×10^6 | 80 |
| 0.5 | 43×10^6 | 30 |
| 1.0 | 26×10^6 | 18 |
| 2.5 | 29×10^6 | 20 |
| 5.0 | 26×10^6 | 18 |
| 7.5 | 24×10^6 | 17 |
| 10.0 | 24×10^6 | 17 |
| 10 to 30 | 14×10^6 | 10 |

(109) [(98)] "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings

and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(110) [(99)] "Restricted area" means any area access to which is controlled by the licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive materials. A restricted area shall not include any areas used as residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

(111) [(100)] "Roentgen" means the special unit of exposure. One (1) roentgen (R) equals 2.58×10^{-4} coulombs per kilogram of air (see "Exposure").

(112) [(101)] "Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent leakage or escape of the radioactive material.

(113) [(102)] "Secretary" means the Secretary of the Cabinet for Human Resources.

(114) [(103)] "Shielded position" means the location within the radiographic exposure device or storage container which, by manufacturer's design, is the proper location for storage of the sealed source.

(115) [(104)] "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those source changers also used for transporting and storage of sealed sources.

(116) [(105)] "Source holder" means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source.

(117) [(106)] "Source image receptor distance (SID)" means the distance from the source to the center of the input surface of the image receptor.

(118) [(107)] "Source material" means:

(a) Uranium or thorium, or any combination thereof, in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth (1/20) of one (1) percent (0.05 percent) or more of:

1. Uranium;
2. Thorium; or
3. Any combination thereof.

(c) Source material does not include special nuclear material.

(119) [(108)] "Source of radiation" means any radioactive material or any device or equipment emitting or capable of producing radiation.

(120) [(109)] "Special form" means radioactive material which satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one (1) dimension not less than five (5) millimeters (0.197 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission (NRC). A special form encapsulation designed in accordance with the NRC requirements in effect on June 30, 1983 and constructed prior to July 1, 1985 may continue to be used. A

special form encapsulation either designed or constructed after June 30, 1985 must meet requirements of this definition applicable at the time of its design or construction.

(121) [(110)] "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope U-233 or in the isotope U-235, and any other material which the Governor declares by order to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing, but does not include source material.

(122) [(111)] "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; U-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one (1). For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175 \text{ (grams contained U-235)}}{350} +$$

$$\frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

(123) [(112)] "Specific activity" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(124) [(113)] "Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(125) [(114)] "Storage" (waste storage) means the holding of waste for treatment or disposal for a period of twenty-four (24) hours or more.

(126) [(115)] "Storage container" means a device in which sealed sources are transported or stored.

(127) [(116)] "Subsurface tracer study" means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

(128) [(117)] "Survey" means an evaluation of the production, use, release, disposal, or presence of sources of radiation under a specific set of conditions to determine actual or potential radiation hazards. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(129) [(118)] "Technique factors" means the conditions of operation. They are specified as follows:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge

in mAs.

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.

(c) For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(130) [(119)] "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(131) [(120)] "Temporary job site" means a location to which radioactive material has been dispatched to perform a job, operation, or study.

(132) [(121)] "Tests" means the process of verifying compliance with an applicable regulation.

(133) [(122)] "Therapeutic-type protective tube housing" means:

(a) For x-ray therapy equipment not capable of operating at 500 kVp or above, the following definition applies: an x-ray tube housing so constructed that the leakage radiation at a distance of one (1) meter from the target does not exceed one (1) roentgen in one (1) hour when the tube is operated at its maximum rated tube potential;

(b) For x-ray therapy equipment capable of operating at 500 kVp or above, the following definition applies: an x-ray tube housing so constructed that the leakage radiation at a distance of one (1) meter from the target does not exceed one-tenth (0.1) percent of the useful beam exposure rate at one (1) meter from the target, for any of its operating conditions;

(c) In either case, small areas of reduced protection are acceptable providing the average reading over any 100 square centimeter area at one (1) meter distance from the target does not exceed the values given above.

(134) [(123)] "These regulations" means radiation regulations adopted by the Cabinet for Human Resources, Kentucky's Administrative Regulations on radiation, 902 KAR Chapter 100.

(135) [(124)] "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one (1) meter from the external surface of the package.

(136) [(125)] "Treatment" (waste treatment) means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste for transport, storage or disposal, amendable to recovery, convertible to another usable material or reduced in volume.

(137) [(126)] "Tube" means an x-ray tube, unless otherwise specified.

(138) [(127)] "Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and other appropriate elements when they are contained within the tube housing.

(139) [(128)] "Tube rating chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(140) [(129)] "Type A quantity" means a quantity of radioactive material, the aggregate

radioactivity of which does not exceed A₁ for special form radioactive material or A₂ for normal form radioactive material, where A₁ and A₂ are given in 902 KAR 100:070, Section 21, or may be determined by procedures described in 902 KAR 100:070, Section 20.

(141) [(130)] "Type B package" means a Type B packaging together with its radioactive contents. A Type B package design is designated as B(U) or B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to U.S. Department of Transportation regulations in 49 CFR Part 173. A Type B package approved prior to September 6, 1983 was designated only as Type B. Limitations on its use are specified in 902 KAR 100:070, Section 7.

(142) [(131)] "Type B packaging" means a packaging designed to retain the integrity of containment and shielding required by U.S. Nuclear Regulatory Commission regulations when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR Part 71.

(143) [(132)] "Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

(144) [(133)] "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the department exercises functions formerly vested in the U.S. Atomic Energy Commission, its chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(145) [(134)] "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

(146) [(135)] "Unrestricted area" means any area access to which is not controlled by the licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive material, and any area used for residential quarters.

(147) [(136)] "Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam limiting device when the exposure switch or timer is activated.

(148) [(137)] "User" means any individual who personally utilizes or manipulates a source of radiation.

(149) [(138)] "Variable-aperture beam limiting device" means a beam limiting device which has capacity for stepless adjustment of the x-ray field size at a given SID.

(150) "Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

(151) [(139)] "Waste" (see "low-level radioactive waste").

(152) [(140)] "Well-bore" means a drilled hole in which wire line service operations and subsurface tracer studies are performed.

(153) [(141)] "Well-logging" means the lowering and raising of measuring devices or tools which may contain sources of radiation in well-bores or cavities for the purpose of obtaining information about the well and/or adjacent formations.

(154) [(142)] "Wire line" means a cable containing one (1) or more electrical conductors which is used to lower and raise logging tools in the well-bore.

(155) [(143)] "Wire line service operation" means any evaluation or mechanical service which is performed in the well-bore using devices on a wire line.

(156) [(144)] "Worker" means an individual engaged in activities licensed or registered by the cabinet and controlled by a licensee or registrant, but does not include the licensee or registrant.

(157) [(145)] "X-ray equipment" means an x-ray system, subsystem, or component thereof. X-ray equipment may be used as:

(a) "Mobile" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

(b) "Portable" means x-ray equipment designed to be hand-carried.

(c) "Stationary" means x-ray equipment which is installed in a fixed location.

(d) "Transportable" means x-ray equipment installed in a vehicle or trailer.

(158) [(146)] "X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting [lighting] device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: February 14, 1990

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CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(As Amended)

904 KAR 2:016. Standards for need and amount; AFDC.

RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233

STATUTORY AUTHORITY: KRS 205.200(2)

NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent(s), and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his eligible parent(s), the minor's parent(s) shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated natural or adoptive parent of the child(ren) who is living in the home shall be included as second parent if the technical eligibility factors are met.

(2) "Minor" means any person who is under the age of eighteen (18) or under the age of nineteen (19) in accordance with 45 CFR 233.90(b)(3). EXCEPTION: For the purpose of deeming income, a minor parent/legal guardian is considered any person under the age of eighteen (18).

(3) "Sanctioned individual" means any person who is required to be included in the assistance group but who is excluded from the assistance group due to failure to fulfill an eligibility requirement.

(4) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(5) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(6) "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation in a General Educational Development (GED) program; or

(b) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time; or

(d) Eight (8) clock hours per month in a literacy program.

(e) Twenty-five (25) clock hours per week in combination programs.

(7) "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(8) "Combination programs" means any educational program which includes as its basis literacy or GED. This program must also include life skills, skills training or job readiness training.

(9) "Gross income limitation standard" means 185 percent of the sum of the assistance standard, as set forth in Section 7 of this regulation, and any educational allowance as set forth in Section 8 of this regulation.

(10) "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(11) "Recoupment" means recovery of overpayments of assistance payments.

(12) "Retrospective budgeting" means computing amount of assistance based on actual income and circumstances which existed in the second month prior to the payment month.

(13) "Lump sum income" means income that does not occur on a regular basis, and does not represent accumulated monthly income received in a single sum.

(14) "Unavailable" means that the income is not accessible to the AFDC benefit group for use toward basic food, clothing, shelter, and utilities.

(15) "Beyond the control" means:

(a) Loss or theft of the money;

(b) The individual to whom the lump sum was designated no longer lives in the household, making the lump sum income inaccessible;

(c) Expenditure of the lump sum income to meet extraordinary expenses, that are not included in the AFDC Standard of Need.

(16) "Claimant" means the individual responsible for an overpayment.

Section 2. Resource Limitations. Real and personal property owned in whole or in part by an applicant or recipient including sanctioned individual(s) and his parent(s), even if the parent(s) is not an applicant or recipient, if the applicant/recipient is a dependent child living in the home of said parent, shall be considered. The amount that can be reserved by each assistance group shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) of this section as follows:

(1) Excluded resources. The following resources shall be excluded from consideration:

(a) One (1) owner-occupied home;

(b) Home furnishings, including all appliances;

(c) Clothing;

(d) One (1) motor vehicle, not to exceed \$1,500 equity value;

(e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;

(f) Items valued at less than fifty (50) dollars each;

(g) One (1) burial plot/space per family member;

(h) Funeral agreements not to exceed maximum equity of \$1,500 per family member;

(i) Real property which the assistance group is making a good faith effort to sell. This exemption shall not exceed a period of nine (9) months and is contingent upon the assistance group agreeing to repay AFDC benefits received beginning with the first month of the exemption. Any amount of AFDC paid during that period that would not have been paid if the disposal of property had occurred at the beginning of the period is considered an overpayment. The amount of the repayment shall not exceed the net proceeds of the sale. If the property has not been sold within the nine (9) months, or if eligibility stops for any other reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) Other items/benefits mandated by federal regulations.

(2) Disposition of resources. An applicant/recipient shall not have transferred or otherwise divested himself/herself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the

household's application shall be denied, or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following will apply:

(1) Gross income test. The total gross non-AFDC income of the assistance group, as well as income of parent(s), sanctioned individuals and amount deemed available from the parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with such assistance group, and amount deemed available from a stepparent(s) living in the home, and amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard. Disregards specified in Section 4(1) of this regulation shall apply. If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test. If the gross income is below the gross income limitation standard and the assistance group has not received assistance during the four (4) months prior to the month of application, the applicant eligibility test shall be applied. The total gross income after application of exclusions/disregards set forth in Section 4(1) and (2) of this regulation shall be compared to the assistance standard set forth in Section 7 of this regulation. If income exceeds this standard, the assistance group is ineligible. For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation. If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4(1), (2), and (3) of this regulation. If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible. Amount of assistance for the initial two (2) months of eligibility shall be determined prospectively in accordance with 45 CFR 233.34 and for subsequent months retrospectively, in accordance with 45 CFR 233.35.

(4) A period of ineligibility shall be established in accordance with 45 CFR 233.20(a)(3)(ii)(F), for applicants/recipients whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income. The ineligibility period shall be recalculated if any of the following circumstances occur:

(a) The standard of need increases and the amount of grant the assistance group would have received also changes.

(b) Income, which caused the calculation of the ineligibility period, has become unavailable

for reasons that were beyond the control of the benefit group. [The income received has become unavailable to the assistance group for reasons beyond their control.]

(c) The assistance group incurs and pays necessary medical expenses not reimbursable by a third party in accordance with 42 CFR 435.831(C).

Section 4. Excluded/Disregarded Income. All gross non-AFDC income received or anticipated to be received by the assistance group, natural parent(s) and parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with such assistance group and stepparent(s) living in the home, shall be considered with the applicable exclusions/disregards as set forth below:

(1) Gross income test. All incomes listed below shall be excluded/disregarded:

(a) Disregards applicable to stepparent income and/or income of the parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with the assistance unit, as set forth in Section 5 of this regulation;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6 of this regulation;

(c) Disregards applicable to self-employment income, as set forth in 45 CFR 233.20(a)(6)(v)(B);

(d) Work Incentive Program (WIN) incentive payments;

(e) Earnings received by a dependent child from participation in the Summer Youth Program, Work Experience Program, Limited Work Experience Program, and Tryout Employment Program under the Job Training Partnership Act (JTPA) for a period not to exceed six (6) months within a given calendar year, effective March 1, 1988;

(f) Unearned income received by a dependent child from participation in a JTPA program;

(g) Reimbursement for training-related expenses made by a manpower agency to applicants or recipients in institutional and work experience training programs under the WIN program;

(h) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(i) Nonemergency medical transportation payments;

(j) Payments from complementary programs if no duplication exists between the other assistance and the assistance provided by the AFDC program;

(k) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce utilized for household consumption;

(p) Housing subsidies received from federal, state or local governments;

(q) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975;

(r) Funds distributed per capita to or held in

trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134 or Public Law 94-540;

(s) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

(t) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of Public Law 93-113;

(u) Payments to volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113 except when the value of such payments when adjusted to reflect the number of hours volunteers are serving is the same as or greater than the minimum wage under state or federal law, whichever is greater;

(v) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(w) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, adult foster care, or subsidized adoption;

(x) Payments made under the Low Income Home Energy Assistance Act (LIHEAP) and other energy assistance payments which are permitted to be excluded pursuant to 45 CFR 233.53 (c)(5)(i);

(y) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group;

(z) For a period not to exceed six (6) months within a given year, earnings of a dependent child in full-time school attendance;

(aa) Nonrecurring gifts of thirty (30) dollars or less received per calendar quarter for each individual included in the assistance group; and

(bb) Effective January 3, 1989, loans.

(cc) Effective June 1, 1989, up to \$12,000 to Aleuts and \$20,000 to individuals of Japanese ancestry for payments made by the United States Government to compensate for hardships experienced during World War II.

(dd) Effective June 1, 1989, the essential person's portion of the SSI check.

[(ee) The advance payment or refund of earned income tax credit (EITC).]

[(ff)] Income of an individual receiving mandatory or optional state supplementary payments under Section 1616(a) of the Social Security Act or under Section 212 of P.L. 93-66.

[(gg)] Other benefits mandated by federal regulations or legislation.

(2) Applicant eligibility test. The exclusions/disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a dependent child in full-time school attendance for a period not to exceed six (6) months within a given year;

(c) Standard work expense deduction of ninety (90) dollars for full-time and part-time

employment; [and]

(d) Child care, for a child(ren) or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed \$175 per month per individual for full-time employment or \$150 per month per individual for part-time employment, or \$200 per month per individual for child under age two (2); and

(e) The advance payment or refund of earned income tax credit (EITC).

(3) Benefit calculation. After eligibility is established, exclude/disregard all incomes listed in subsections (1) and (2) of this section as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall be applied in accordance with 45 CFR 233.20(a)(11)(i)(D) and 45 CFR 233.20(a)(11)(ii)(B) and shall not be available to the individual until he/she has not been a recipient for twelve (12) consecutive months; and

(c) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.

(4) Exceptions. Disregards from earnings in subsections (2)(c) and (d) and (3)(b) of this section shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made; or

5. Effective February 1, 1988, the child care arrangement is terminated through no fault of the client; or

6. Effective February 1, 1988, the available child care does not meet the needs of the child(ren), e.g., handicapped or retarded children.

(b) Fails to make a timely report of earnings unless good cause exists as follows:

1. The assistance group moved and reported the move timely, however, the move resulted in a delay in receiving or failure to receive the mandatory monthly report form; or

2. An immediate family member living in the home was institutionalized or died during the

filing period; or

3. The specified relative was out of town during the entire filing period; or

4. The assistance group has been directly affected by a natural disaster (i.e., fire, flood, storm, earthquake).

(c) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

(5) Sanction exception. The earned income of sanctioned individuals shall be counted without providing the exclusion/disregards in either subsections (2) and (3) of this section.

Section 5. Income and Resources. Income and resources of a stepparent living in the home with a dependent child and parent(s)/legal guardian(s) living in the home with a minor parent/legal guardian but whose needs are not included in the grant are considered as follows:

(1) Income. The gross income is considered available to the assistance group, subject to the following exclusions/disregards:

(a) The first ninety (90) dollars of the gross earned income;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are or may be claimed by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian as dependents for purposes of determining his federal personal income tax liability;

(c) Any amount actually paid by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian to individuals not living in the home who are or may be claimed by him as dependents for purposes of determining his/her personal income tax liability;

(d) Payments by the stepparent and parent(s)/legal guardian(s) of a minor parent/legal guardian for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent and parent(s)/legal guardian(s) of a minor parent/legal guardian receiving Supplemental Security Income (SSI) under Title XVI.

(2) Sanction exception. The needs of any sanctioned individual are not eligible for the exclusion(s) listed in this section.

(3) Resources. Resources which belong solely to the stepparent and parent(s)/legal guardian(s) of a minor parent/legal guardian are not considered in determining eligibility of the parent or the assistance group.

Section 6. Alien Income and Resources. For the purposes of this section the alien's sponsor and sponsor's spouse (if living with the sponsor) shall be referred to as sponsor. The gross non-AFDC income and resources of an alien's sponsor shall be deemed available to the alien(s), subject to disregards as set forth below, for a period of three (3) years following entry into the United States. If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens. A sponsored alien is ineligible for any month in which adequate

information on the sponsor/sponsor's spouse is not provided. If an alien is sponsored by an agency or organization, which has executed an affidavit of support, that alien is ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization is no longer in existence or does not have the financial ability to meet the alien's needs. The provisions of this section shall not apply to those aliens identified in 45 CFR 233.51(e).

(1) Income. The gross income of the sponsor is considered available to the assistance group subject to the following disregards:

(a) Twenty (20) percent of the total monthly gross earned income, not to exceed \$175;

(b) An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are or may be claimed by the sponsor as dependents in determining his federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

(c) Amounts paid by the sponsor to nonhousehold members who are or may be claimed as dependents in determining his federal personal tax liability;

(d) Actual payments of alimony or child support paid to nonhousehold members; and

(e) Income of a sponsor receiving SSI or AFDC.

(2) Resources. Resources deemed available to the alien(s) shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he were an AFDC applicant in this state, less \$1,500.

Section 7. Payment Maximum. The AFDC payment maximum includes amounts for food, clothing, shelter, and utilities from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, is as follows:

| Effective July 1, 1989 | | |
|----------------------------|-----------------|------------------|
| Number of Eligible Persons | Payment Maximum | Standard of Need |
| 1 child | \$162 | \$394 |
| 2 persons | \$196 | \$460 |
| 3 persons | \$228 | \$526 |
| 4 persons | \$285 | \$592 |
| 5 persons | \$333 | \$658 |
| 6 persons | \$376 | \$724 |
| 7 or more persons | \$419 | \$790 |

Since the payment maximum does not meet full need, effective July 1, 1989, a forty-five (45) percent ratable reduction shall be applied to the deficit between the family's countable income and the standard of need for the appropriate family size. The assistance payment shall be fifty-five (55) percent of the deficit or the payment maximum, whichever is the lesser amount.

Section 8. Special Requirement Educational Allowance (SREA). An educational allowance for child care shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for those month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames,

procedures, and penalties established for households required to report monthly. In addition, effective August 1, 1988 a transportation allowance shall be included in the assistance standard if the criteria in subsection (1)(a) and (b) of this section are met. Effective May 1, 1989, SREA recipients may request that the SREA payment be issued directly to the child care provider of their choice unless the caretaker relative has more than one (1) provider in a given month.

(1) Technical requirements. The following requirements shall be met during any month for which an education allowance is paid.

(a) The caretaker relative shall be included in the assistance grant;

(b) The caretaker relative shall be enrolled full time, as defined in Section 1 of this regulation, in a literacy program, high school (including primary and secondary), vocational school, or a General Educational Development (GED) program or combination program for which no wage or child care allowance is received. If attending college, the caretaker relative shall be enrolled either full or part-time, as defined in Section 1 of this regulation;

(c) A cost shall have been incurred for the care of a child(ren) who is/are under the age of thirteen (13) or a child(ren) who is/are under the age of eighteen (18), if a physician determines the child is unable to attend school due to a physical or mental disability, and is/are included in the assistance grant; and

(d) The payment for child care is made to a provider who is not a household member.

(2) Educational allowance payment standards. The amount of the monthly transportation allowance shall be twenty (20) dollars. The amount of monthly educational allowance payment shall be based on the number of eligible children for whom care is being provided and whether or not enrollment is full or part-time. Effective May 1, 1989 the payment standards are as follows:

| | 1 Child | | 2 or More Children | |
|-------------------------------|-----------|-----------|--------------------|-----------|
| | Full-Time | Part-Time | Full-Time | Part-Time |
| Literacy | \$ 20 | - | \$ 36 | - |
| GED | \$ 94 | - | \$169 | - |
| Elementary School/Junior High | \$174 | - | \$313 | - |
| High School | \$174 | - | \$313 | - |
| Vocational School | \$174 | - | \$313 | - |
| College/University | \$174 | \$143 | \$313 | \$257 |
| Combination Programs | \$174 | \$143 | \$313 | \$257 |

The only combination programs recognized in operating JET counties are those authorized by the department.

(3) Limitations. The number of months a child care educational allowance payment or a transportation educational allowance payment is made shall be limited according to the type of program in which the student enrolls and shall not be provided beyond completion of one (1) program at each level.

(a) Literacy: Type of Program Maximum
Literacy 24 months

(b) High school level.

1. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for

the program in which the student last enrolls as follows:

| Type of Program | Maximums |
|--|------------------------|
| General Educational Development (GED) High School (includes primary and secondary) | 16 months 27 months |

2. A student wishing to continue his education past the high school level may be eligible for additional payments not to exceed the maximums for the posthigh school level.

(c) Posthigh school level. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

| Type of Program | Maximums |
|--------------------|-----------|
| Vocational School | 24 months |
| College/University | 50 months |

Effective May 1, 1989, if a student changes enrollment from full time to part time or from part time to full time during the month, payment shall be authorized for the type of enrollment in which the student participated for the majority of the month.

Section 9. Transitional Child Care (TCC). Effective April 1, 1990, child care assistance shall be provided by the state to families whose eligibility for AFDC assistance has ceased due to increased hours of, or earnings from, employment or as a result of the loss of income disregards due to the expiration of the time limits at 45 CFR 233.20(a)(11). TCC shall be administered by the Cabinet for Human Resources, Department for Social Insurance through an interagency agreement with the Department for Social Services. Child care assistance shall be provided for children if the criteria in subsection (1) of this section are met:

(1) Technical eligibility. The following requirements shall be met during any month for which TCC is paid:

(a) The child(ren) is under age thirteen (13):
or

1. Physically or mentally incapable of caring for himself, as verified by the state based on a determination of a physician or a licensed or certified psychologist; or

2. A dependent child under court supervision (if needy); or

3. Would be a dependent child except for the receipt of benefits under SSI under Title XVI or foster care under Title IV-E.

(b) Child care must be necessary in order to permit a member of an AFDC family to accept or retain employment;

(c) Payments are not made for care provided by parents, legal guardians or members of the assistance unit (including essential persons);

(d) The family shall have ceased to be eligible for AFDC as a result of increased hours of, or increased income from, employment or the loss of income disregards due to the time limitations at 45 CFR 233.20(a)(11);

(e) The family shall have received AFDC in at least three (3) of the six (6) months preceding the first month of ineligibility;

(f) The family requests TCC benefits, provides the information necessary for determining

eligibility and fees, and meets application requirements:

(g) The family ceased to be eligible for AFDC on or after April 1, 1990.

(2) Time limitations. Eligibility for TCC begins with the first month for which the family is ineligible for AFDC and continues for a period of twelve (12) consecutive months when the family requests assistance for TCC. Families may begin to receive child care in any month during the twelve (12) month eligibility period.

(3) Notification of eligibility. A family shall be notified of their potential eligibility for TCC when their AFDC benefits are terminated.

(4) Sanctions. The family is not eligible for TCC for any remaining portion of the twelve (12) month period if the caretaker relative:

(a) Terminates employment unless good cause exists as follows:

1. The individual is personally providing care for a child under age six (6) and employment will require the individual to work more than twenty (20) hours per week.

2. Child care is necessary for the individual to participate in the program or accept employment and such care is not available or the available child care does not meet the special needs of the child(ren), e.g., handicapped or retarded child(ren).

3. The individual is unable to engage in employment or training for mental or physical reasons including participation in a drug and alcohol rehabilitation program.

4. Unavailability of transportation with no readily accessible alternative means of transportation available.

5. Travel time to the work site exceeds two (2) hours daily.

6. Illness of another household member requiring the presence of the participant.

7. Temporary incarceration.

8. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs.

9. Work demands or conditions that render continued employment unreasonable, such as consistently not being paid on schedule or work presents a risk of the individual's health or safety.

10. Wage rates are decreased subsequent to acceptance of employment.

11. Acceptance of a better job which, because of circumstances beyond the control of the recipient, does not materialize.

(b) Fails to cooperate with the state IV-A agency in establishing payments and enforcing child support obligations, as defined in 45 CFR 232.12.

(5) Notices and hearings. Notices of adverse action, hearings, and appeals shall comply with the provisions of 904 KAR 2:046 and 904 KAR 2:055.

(6) Fee requirements. Each family receiving TCC shall be required to contribute toward the payment for child care based on the family's income.

(a) A minimum fee of one (1) percent of the family's gross income shall be charged for families who fall below the federal poverty income guidelines. A sliding fee shall be charged for child care when the gross income exceeds the federal poverty guidelines as defined in 905 KAR 3:010 and 905 KAR 3:020.

(b) Individuals who fail to cooperate in paying required fees may, subject to notices and

hearing requirements, lose eligibility for TCC for the period of time back fees are owed, unless satisfactory arrangements are made to make full payment.

(7) Recoupment. The following provisions apply to overpayments in TCC:

(a) Necessary action shall be taken promptly by the state IV-A agency to correct and recoup any overpayments.

(b) Overpayments, including assistance paid pending hearing decisions, shall be recovered from:

1. The responsible party;

2. The family unit which was overpaid;

3. The provider who was responsible for the overpayment;

4. Individuals who were members of the family when overpaid; or

5. Families which include members of a previously overpaid family.

(c) Overpayments shall be recovered through:

1. Repayment by the individual or child care provider to the cabinet; or

2. Reduction in child care payments; or

3. Reduction of AFDC benefits only upon a voluntary request of the recipient family.

(d) Repayment by the individual shall allow the recipient family to retain, for any month, a reasonable amount of funds.

(e) Underpayments and overpayments may be offset against each other in adjusting incorrect payments.

(f) Benefits shall not be suspended, reduced, discontinued or terminated until a decision is rendered after a hearing as specified in 904 KAR 2:055 requested within the timely notice period.

Section 10. [9.] Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:

(a) The claimant;

(b) [(a)] The overpaid assistance unit;

(c) [(b)] Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(d) [(c)] Any individual member of the overpaid assistance unit whether or not currently a recipient.

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; or

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 7 of this regulation; or

(c) Civil action in the court of appropriate jurisdiction.

[(4)] Overpayments may be waived for inactive nonfraud cases involving less than thirty-five (35) dollars in overpayment.]

[(4)] [(5)] In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

[(5)] [(6)] Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing as

specified in 904 KAR 2:055 is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

Section 11, [10.] Provisions contained in this regulation shall become effective April 1, 1990 [October 1, 1989].

MIKE ROBINSON, Commissioner

HARRY J. COWHERD, Secretary

APPROVED BY AGENCY: March 20, 1990

FILED WITH LRC: March 22, 1990 at 11 a.m.

REGULATIONS AMENDED AFTER PUBLIC HEARING

TOURISM CABINET

Department of Fish and Wildlife Resources
(Amended After Hearing)

301 KAR 2:170. Seasons for deer hunting.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.180, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.400, 150.411, 150.415, 150.416, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to deer seasons in specified counties and on wildlife management areas (WMA). This regulation is necessary to set deer hunting season dates, to specify the counties and management areas open to deer hunting, to prescribe the methods by which deer may be legally taken, and to prescribe procedures by which handicapped persons may apply for exemptions from conventional hunting methods requirements. The function of this regulation is to provide for the prudent taking of deer within reasonable limits, and to insure a permanent and continuing supply of deer for present and future residents of the state. This amendment is necessary to adjust for date, weapon and tag limit changes in the deer seasons.

Section 1. Gun (and any other legal method) Seasons, Zones, Dates, Tags, and Legal Deer. Deer hunting is permitted in the following zones on the dates listed, using any legal method, except as specified in subsection (7) of this section and Section 4 of this regulation.

(1) Zone No. 1: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer [on the first five (5) days, and for antlered deer only on the last five (5) days, of the season]. The yellow tag is valid only for antlerless deer [on the first five (5) days and is not valid on the last five (5) days of the season]. Counties in this zone are Crittenden, Livingston, Logan, and Webster [Breckinridge, Caldwell, Christian, Crittenden, Hancock, Hopkins, Livingston, Logan, Muhlenberg, Todd, and Webster].

(2) Zone No. 2: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer on the first five (5) [three (3)] days and for antlered deer only on the last five (5) [seven (7)] days of the season. The yellow tag is valid only for antlerless deer on the first five (5) [three (3)] days and is not valid on the last five (5) [seven (7)] days of the season. Counties in this zone are Boone, Breckinridge, Bullitt, Caldwell, Carroll, Christian, Gallatin, Hancock, Hopkins, Jefferson, Kenton, Lyon, Meade, Muhlenberg, Nelson, Oldham, Shelby, Spencer, Todd, Trimble, and Union [Allen, Anderson, Ballard, Boone, Bracken, Butler, Carlisle, Carroll, Franklin, Fulton, Gallatin, Grant, Graves, Henderson, Henry, Hickman, Jefferson, Kenton, McCracken, Marion, Meade, Ohio, Oldham, Owen, Pendleton, Shelby, Trigg, Trimble, Union, and Washington].

(3) Zone No. 3: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for antlered deer only on the last eight (8) [first seven (7)] days and for any deer on the first two (2) [last three (3)] days of the season. The yellow tag is valid

only for antlerless deer on the first two (2) [last three (3)] days and is not valid on the last eight (8) [first seven (7)] days of the season. Counties in this zone are Allen, Anderson, Ballard, Boyle, Bracken, Butler, Calloway, Carlisle, Casey, Franklin, Fulton, Grant, Graves, Grayson, Green, Hardin, Harrison, Henderson, Henry, Hickman, Larue, McCracken, Marion, Mercer, Ohio, Owen, Pendleton, Robertson, Scott, Taylor, Trigg, Washington, and Woodford [Bullitt, Calloway, Daviess, Grayson, Green, Hardin, Harrison, Larue, Lyon, McLean, Mercer, Metcalfe, Nelson, Robertson, Scott, Taylor, Warren, and Woodford].

(4) Zone No. 4: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for antlered deer on the first nine (9) days and for any deer on the last day. The yellow tag is not valid for the first nine (9) days and is valid only for antlerless deer on the last day of the season. Counties in this zone are Adair, Barren, Campbell, Cumberland, Daviess, Edmonson, McLean, Marshall, Mason, Metcalfe, Monroe, Nicholas, Simpson, and Warren [Boyle, Campbell, Casey, Cumberland, Edmonson, Marshall, Mason, Monroe, Nicholas, and Spencer].

(5) Zone No. 5: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid only for antlered deer. The yellow tag is not valid. Counties in this zone are Bath, Boyd, Carter, Clark, Clinton, Elliott, Fleming, Greenup, Hart, Lawrence, Lincoln, McCreary, Madison, Menifee, Morgan, Pulaski, Rowan, Russell, Wayne, and Whitley [Elliott, Fleming, Greenup, Hart, Lawrence, Lincoln, McCreary, Menifee, Morgan, Pulaski, Rowan, Russell, Simpson, and Wayne].

(6) Zone No. 6: open for five (5) consecutive days beginning on [the Thursday following] the second Saturday in November. The white tag is valid for antlered deer only. The yellow tag is not valid. Counties in this zone are Bell, Bourbon, Breathitt, Clay, Fayette, Floyd, Garrard, Harlan, Jackson, Jessamine, Johnson, Knott, Laurel, Lee, Leslie, Letcher, Lewis, Martin, Montgomery, Owsley, Perry, Pike, Powell, Rockcastle, and Wolfe [Clinton, Fayette, Floyd, Garrard, Harlan, Jackson, Jessamine, Johnson, Knott, Laurel, Lee, Leslie, Lewis, Madison, Martin, Montgomery, Owsley, Pike, Powell, Rockcastle, Whitley, and Wolfe].

(7) [Zone No. 7:] Counties, wildlife management areas, and parks closed to all deer hunting.

(a) Counties: [in this zone are] Estill, Knox, and Magoffin [Letcher, Magoffin, and Perry].

(b) Wildlife management areas: Ballard WMA in Ballard County (except that portion south of Terrell Landing Road), Robinson Forest WMA in Breathitt, Perry, and Knott Counties, and Swan Lake WMA in Ballard County.

(c) Deer hunting is prohibited within the boundaries of all national parks.

(8) Exceptions to tag usage. Hunters using special purpose tags as antlerless deer permits issued to landowners, as specified in 301 KAR 2:210 shall take only one (1) antlerless deer in addition to the statewide limit. Hunters required to possess a deer permit as specified in Section 6(1) of this regulation shall [must] have this permit in possession when hunting with a special purpose tag.

Section 2. Archery and Crossbow Season, Zones, Dates, Tags, and Legal Deer. Except as specified in Sections 1 and 3 of this regulation, both the yellow and white tags are valid for any deer in Zones 1, 2, 3, 4, and 5; and both the yellow and white tags are valid for antlered deer only in Zone 6.

(1) Archery season (longbows, recurve and compound bows): October 1 through January 15 [December 31].

(2) Crossbow season: beginning the second Saturday in November and continuing for twenty (20) consecutive days and during the muzzle-loading seasons only.

(3) Archery and crossbow hunting during firearms seasons. Archery and crossbow equipment may be used during any gun and muzzle-loading seasons. Archery and crossbow hunters shall abide by the gun or muzzle-loading seasons regulations and tag restrictions in effect for the county or WMA in which they are hunting as specified in Sections 1, 3, 4, and 7 of this regulation. Hunters shall not possess both archery or crossbow equipment and firearms while deer hunting except during gun, WMA quota hunt and muzzle-loading seasons.

Section 3. Muzzle-loading Season, Zones, Dates, Tags, and Legal Deer. Both the white and the yellow tags are valid for any deer in Zones 1, 2, and 3 as specified in Section 1 of this regulation. Both the white and the yellow tags are valid for antlered deer only in Zones 4 and 5. The white tag is valid for antlered deer only in Zone 6. The yellow tag is not valid in Zone 6.

(1) Dates: two (2) consecutive days beginning the third [first] Saturday in October and seven (7) consecutive days beginning the second Saturday in December.

(2) Permitted firearms: only those muzzle-loading firearms specified in Section 8(1) of this regulation are permitted. Hunters shall not possess breech-loading firearms while deer hunting during this period.

Section 4. Exceptions to Deer Hunting Regulations on Wildlife Management Areas. All deer gun, archery and crossbow regulations apply unless otherwise specified below. When specific hunting dates are given, deer hunting shall be permitted only on those dates; otherwise, applicable dates and harvest restrictions for the zone in which the WMA occurs shall apply. Unless otherwise noted below, the muzzle-loading season shall not be in effect on these areas.

(1) Limits. An individual shall take no more than one (1) deer from each of the areas listed below except that two (2) may be taken on West Kentucky and Higginson-Henry WMA's.

(2) Advance application for quota hunts. Advance application is required for all quota hunts. Applications for quota hunts shall be made only on forms provided by the department and shall include the hunting license number of the applicant, if that applicant is required to possess a license [for hunting on these areas]. No more than four (4) hunters shall apply as a party [by stapling their applications together]. Hunters sixteen (16) years old and older shall apply to only one (1) quota hunt, and qualified juveniles (those who on the day of the hunt are at least ten (10) years old and have not reached their 16th birthday) shall apply to a maximum of one (1) quota hunt and one (1) youth hunt. Multiple applications to one (1) area or

applications in excess of the limits stated in this subsection shall result in disqualification. Completed applications shall [must] be stamped, self-addressed and postmarked no later than August 31.

(3) Checking in and out.

(a) Hunters drawn for quota hunts shall hunt only on assigned dates and in assigned areas, and shall [must] check in before, and out at the completion of, the hunt. All hunters shall present their application and show proof of identity when checking in. No other person shall substitute for the person whose name appears on the application. Hunters shall also produce the signature portion of a current deer permit and will be issued a special purpose tag to place on the deer. Hunters shall take only the kind of deer specified (antlered or antlerless) if so specified on the tag. Participants in youth hunts shall also show valid hunter safety certification and shall [must] be accompanied by an adult as specified in Section 7(1) of this regulation.

(b) All deer hunters shall [must] both check in and check out for all hunts on Clay, Dewey Lake, Grayson Lake, Higginson-Henry, Kleber, Paintsville Lake, Redbird, West Kentucky, Yatesville and Yellowbank WMAs.

(4) Hunting on private inholdings within WMAs. Owners of private inholdings or their guests may hunt on these inholdings during quota hunts without going through the application procedure, but shall [must] obey all other quota hunt rules. Private inholdings are open only during the hunts and under the regulations for the WMA in which they lie.

(5) Equipment permitted. On quota hunts and gun hunts any legal method (firearms, archery, or crossbow) may be used, and all hunters shall [must] wear hunter orange as specified in Section 7(4) of this regulation. Archery hunts are limited to legal longbows, recurve bows and compound bows.

(6) Beaver Creek WMA in McCreary and Pulaski Counties, and Mill Creek WMA in Jackson County.

(a) Archery hunt: antlered deer only, October 15 through the Friday preceding the second Saturday in November [10].

(b) Quota hunt: antlered deer only, first Saturday and Sunday in December.

(7) Birdsville Island WMA in Livingston County.

(a) Quota hunt: any deer, October 20 and 27.

(b) Drawing: a drawing shall be announced in the news media and held in Livingston County on October 6 to select participating hunters.

(8) [(7)] Cane Creek WMA in Laurel County.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November [10] and the Monday following the first Sunday in December [4] through December 31.

(b) Gun hunt: antlered deer only, second [third] Saturday in November.

(9) [(8)] Central Kentucky WMA in Madison County.

(a) Archery hunt: antlered deer only, December 18 through 31.

(b) No firearm[s] deer hunting allowed.

(10) [(9)] Clay WMA in Nicholas County.

(a) Archery hunt: any deer, October 15 through the Friday preceding the second Saturday in November [30].

(b) Quota hunt: any deer, first Saturday and Sunday in December.

(11) [(10)] Dewey Lake WMA in Floyd County.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November [10] and the Monday following the quota hunt [December 4] through December 31 except during youth quota hunt.

(b) Quota hunt: antlered deer only, first Saturday and Sunday in December.

(c) Youth quota hunt: any deer, first Saturday and Sunday in November.

(12) [(11)] Grayson Lake WMA in Carter and Elliott Counties.

(a) Youth quota hunt: any deer, first Saturday and Sunday in November [December], only on that portion north [west] of Route 1496, east of the Little Sandy River and on the Bruin Creek portions of the area. This is the only firearm deer hunting permitted on the area.

(b) Archery and crossbow hunt: any deer, except on the portion north [west] of Route 1496, east of the Little Sandy River and on the Bruin Creek section, October 1 through December 31.

(13) [(12)] Higginson-Henry WMA in Union County.

(a) Quota hunt for deer as specified on permit, first Saturday and Sunday in November.

(b) Archery hunt: during the period October 1 through 15 hunters may only hunt with a special purpose tag. Only one (1) antlerless deer may be taken during this period. One (1) deer of either sex may be taken with the white or yellow deer tag during the period October 16 through December 31 [any deer, October 1 through December 31], except during the quota hunt.

(14) [(13)] Kleber WMA in Owen and Franklin Counties.

(a) Quota hunt: [for] any deer, first Saturday and Sunday in December.

(b) Archery hunt: third Saturday in October through December 31, except during the quota hunt.

(15) [(14)] Paintsville Lake WMA in Morgan and Johnson Counties.

(a) Quota hunt: antlered deer only, first Saturday and Sunday in December.

(b) Archery hunt: antlered deer only October 1 through the Friday preceding the second Saturday in November and the Monday following the quota hunt through December 31.

(16) [(15)] Peabody and White City WMA's in Hopkins, Muhlenberg and Ohio Counties.

(a) Archery hunt: October 1 through December 31. Advance application required for all tracts except White City WMA.

(b) Quota hunt 1: the second Saturday in November through the following Wednesday.

(c) Quota hunt 2: the Thursday following the second Saturday in November through the following Monday.

(d) Limits: one (1) deer. The white tag is valid for any deer and the yellow tag is valid only for antlerless deer.

(e) All hunters shall [must] apply in advance on the standard application form and have the validated portion of this form in their possession while hunting. Archery hunters shall not be selected by a drawing and may apply to hunt through December 1.

(17) [(16)] Pennyryle WMA in Caldwell, Christian, and Hopkins Counties. All deer hunting shall conform to Zone 4 [3] regulations.

(18) [(17)] Pioneer Weapons WMA in Bath and Menifee Counties.

(a) Legal muzzle-loading firearms only; [muzzle-loading handguns of .44 caliber or

larger are permitted;] crossbows may be used during the entire archery season.

(b) Checking in or out is not required. All deer taken shall [must] be checked in accordance with Section 6(3) of this regulation.

(c) Hunting is permitted during the muzzle-loading season as specified in Section 3 of this regulation.

(19) [(18)] Redbird WMA in Clay and Leslie Counties.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November and the Monday following the first Sunday in December [November 10 and December 4] through December 31.

(b) Gun hunt: antlered deer only, second [third] Saturday in November.

(20) Taylorsville Lake WMA in Anderson and Spencer Counties.

(a) Archery hunt: any deer, October 1 through December 31, except during the quota hunt.

(b) Quota gun hunt: any deer, first Saturday and Sunday in November.

(21) [(19)] Tradewater WMA in Hopkins County: all deer hunting shall conform to Zone 4 [3] regulations.

(22) [(20)] West Kentucky WMA in McCracken County.

(a) Archery hunts [and quota archery hunts]: any deer, October 1 through November 1, November 5 through 15, November 19 through 20, December 10 through 13 [2 through the Thursday preceding the first Saturday in November, November 6 through November 16, November 20 through November 24, and December 6 through December 14] on all tracts except [those tracts] posted [as safety] zones and December 17 [18] through December 31 on tracts 5 and 6 only. [Quota archery hunts shall take place during specified periods to be announced. A special purpose tag, available at check in, shall be used and shall not count against the state limit.]

(b) Archery hunts on posted zones: designated posted zones shall be opened to archery hunts on November 19 and 20 and December 10 through 13.

(c) [(b)] Quota hunt 1: any deer, third Saturday and Sunday in November.

(d) [(c)] Quota hunt 2: any deer, third Saturday and Sunday in December.

(e) [(d)] Youth quota hunt: any deer, first Saturday and Sunday in November.

(f) [(e)] All gun hunters are limited to muzzle- or breech-loading shotguns only.

(g) [(f)] No firearms permitted on any [tract] posted [as a safety] zone at any time.

(h) All hunters shall check in and out daily.

(i) Crossbow hunt: beginning October 26 [27] and continuing for eight (8) consecutive days.

(j) Limits: two (2) deer, one (1) of which shall be antlerless and tagged with the yellow tag, the other deer may be antlered or antlerless and tagged with a special purpose tag issued on the area. Only one (1) special purpose tag shall be issued to an individual. A bow hunter who has taken a deer on this WMA with a special purpose tag shall not hunt in the quota hunt.

(23) [(21)] Yellowbank WMA in Breckinridge County.

(a) Quota hunt: [for] any deer, first Saturday and Sunday in November.

(b) Archery hunt: antlered deer only October 1 through 14 and any deer, October 15 through December 31, except during quota hunt.

Section 5. Legal Deer, Taking of Other Species, Hunting Hours and Bag Limits. (1) An antlered deer is defined as having one (1) antler at least four (4) inches in length, measured from the skin to the tip of the antler.

(2) Hunting is permitted during daylight hours only.

(3) The limit is two (2) deer per hunter per year, except that deer may be taken in addition to the limit with the special purpose tag as provided by this and other regulations.

(4) The taking of coyotes and wild hogs from November 1 through the gun, archery and special muzzle-loader season is permitted by deer hunters possessing a valid deer tag as specified in Sections 1, 2 and 3 of this regulation, and using legal weapons as specified in Sections 7 and 8 of this regulation. Any wild hog taken shall be reported to an official deer check station and the carcass presented for examination.

Section 6. Hunting License, Deer Permits, Deer Tags and Check Station Requirements. (1) Hunting license and deer permits. All deer hunters, except those exempted by KRS 150.170[(3), (5), (6), or (7)], shall possess a valid annual Kentucky hunting license and a valid deer permit. Hunters not eligible to purchase a junior hunting license shall purchase the two (2) tag permit. Hunters eligible to purchase a junior hunting license may purchase either the junior deer permit or the two (2) tag permit. The junior permit may be used in place of either the white or yellow tag.

(2) Leaving head attached. Any person possessing a deer shall leave the head attached to the body until the carcass is removed from the field and checked in.

(3) Mandatory deer check stations. Any person taking a deer during any deer hunting season shall present the entire or field dressed carcass to have it checked at the deer check station nearest to where the deer was taken, or by the nearest available conservation officer, no later than 9 a.m. on the day following the day taken. The person taking the deer shall check it in personally. The hunter shall fill out an official game check card and submit it to the check station operator or conservation officer. The hunter's portion of this card shall be retained in the hunter's possession until the deer is taken to the processor. Parts separated for taxidermy shall be accompanied by the taxidermy portion of the game check card as specified in subsection (4)(c) of this section.

(4) Tagging deer carcass and head.

(a) Immediately after taking a deer and before moving the carcass, the hunter shall attach a valid, adhesive backed, paper tag portion of the deer permit or special purpose tag to the deer. This tag shall be attached so that it cannot be removed without destroying the tag or mutilating the carcass and shall remain attached until the carcass is processed and packaged. Before moving any harvested deer from their property or allowing it out of their possession, hunters who are not required to possess a deer permit under the provisions of subsection (1) of this section shall attach to the deer a card or tag containing the following information: name of owner, address, date killed and location killed.

(b) Deer taken in Kentucky shall not be transported outside state boundaries unless they have been checked in at an official check

station. Proof of legal harvest shall [must] accompany any deer or parts of deer transported into Kentucky. Any deer entered in the trophy deer list shall be taken legally and within the boundaries of the state.

(c) Heads or other parts from deer taken in Kentucky separated from the carcass for mounting by a taxidermist shall have the taxidermy portion of the official game check card properly filled out and attached to the separated part.

(d) Deer hides may be sold to licensed fur buyers and licensed fur processors.

(e) All locker and processing plants shall keep accurate records of name of hunter, address, and date received for deer in their facility. Each deer shall have a tag stating the above information.

Section 7. Requirements for Deer Hunting.

(1) Persons under sixteen (16) years of age shall not hunt deer with a gun unless accompanied by an adult who shall be able to seize immediate control of the juvenile's hunting weapon.

(2) Deer shall not be taken with the aid of dogs or any domestic animal, or by the use of a boat or any type of vehicle.

(3) A deer shall not be taken while the deer is swimming.

(4) All persons hunting deer during any season or hunt where firearms are permitted shall wear a hat or cap and vest of a solid, unbroken hunter orange color. Required garments shall not be camouflage orange or fishnet type material. A hunter orange coat or coveralls may be substituted for the vest. The hat, cap, vest, coat, or coveralls shall be worn as outer garments on both the head and upper torso (chest and back). A small patch, logo, pocket, shell holder, hat rim, and/or pads (shoulder and/or elbow) shall be permitted on any of these garments so long as they do not significantly obscure the hunter orange color. [minimum total of 500 square inches of visible solid hunter orange color on the head, back and chest. A vest and headgear shall satisfy the requirements of this regulation. Headgear may display an emblem on the front as long as this emblem does not completely obscure the hunter orange color when viewed from head on.]

(5) On department owned or operated wildlife management areas, Westvaco Public Hunting Area, the Daniel Boone National Forest, Reelfoot National Waterfowl Refuge and the Big South Fork National River and Recreation Area, the use of any nails, spikes, screw-in devices, wire or tree climbers is prohibited for attaching tree stands or for climbing trees. Only portable tree stands and climbing devices that do not injure trees may be used. Portable stands shall not be placed in trees more than two (2) weeks before opening day of each hunting period and shall be removed within one (1) week following the last day of each hunting period. All portable tree stands shall be marked with the owner's name and address. Existing permanent tree stands shall not be used.

(6) Rattling of antlers or sticks and the use of hand or mouth operated calls are permitted.

(7) No person shall possess a deer taken contrary to this or any other regulation or statute.

Section 8. Firearms and Ammunition Restrictions for Gun Deer Hunting. (1)

Permitted: center-fire rifles; muzzle-loading rifles of .40 caliber or larger; and muzzle-loading or breech-loading shotguns of ten (10) gauge maximum and twenty (20) gauge minimum firing a single projectile; handguns with barrel lengths of 3.9 inches and a minimum caliber of .30 with a cartridge case length of not less than one and one-fourth (1 1/4) inch. Legal handgun cartridges may be used in rifles and legal rifle cartridges may be used in handguns. Muzzle-loading pistols shall be .44 [the .44 Colt Dragoon, the .44 Colt Walker or .45] caliber or larger.

(2) Prohibited: any caliber or cartridge that does not meet the requirements given in subsection (1) of this section; any fully automatic weapon or weapon capable of firing more than one (1) round with one (1) trigger pull; [muzzle-loading handguns;] semiautomatic and pump rifles or shotguns a magazine capacity exceeding ten (10) rounds fully jacketed ammunition tracer bullet ammunition; buckshot or any type of shot shells.

Section 9. Equipment Restrictions for Archery Deer Hunting. (1) Longbows, recurve and compound bows shall not be fitted with any device capable of holding an arrow at full draw without aid from the hunter.

(2) Arrows shall be barbless without chemical treatment or chemical attachments, with broadhead points at least seven-eighths (7/8) inch wide.

(3) Crossbows shall have a minimum pull weight of 100 pounds and a working safety device. Minimum bolt weight is 380 grains with a barbless broadhead point at least seven-eighths (7/8) inch wide with no chemical treatments or chemical attachments.

Section 10. Hunting Methods Exemptions for Handicapped Hunters. Persons with physical handicaps that would make it impossible for them to hunt by conventional methods may apply by letter to the commissioner of the department for a hunting methods exemption. The commissioner may authorize any reasonable exception that would permit a handicapped person to hunt when he or she could not otherwise do so because of his or her handicap. Specific exemptions to be allowed shall be described in the letter of authorization, which shall be signed by the commissioner and a conservation officer who shall certify that the applicant for the exemption is, in his opinion, handicapped to such a degree that the requested exemption is necessary to permit the applicant to hunt. Hunting method exemptions will expire at the end of the license year.

DON R. McCORMICK, Commissioner
MARY RAY OAKEN, Secretary
DAVID GODBY, Chairman

APPROVED BY AGENCY: June 7, 1990

FILED WITH LRC: June 8, 1990 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(Amended After Hearing)

902 KAR 20:026. Operations and services; skilled nursing facilities.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990
STATUTORY AUTHORITY: KRS 216B.042 [216B.040], 216B.105[(3), Executive Order 86-366]

NECESSITY AND FUNCTION: KRS 216B.042 [216B.040] and 216B.105[(3)] mandate that the Cabinet for Human Resources [Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board] regulate health facilities and health services. [Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General.] This regulation establishes [provides for the] licensure requirements for the operation of skilled nursing facilities [and the services to be provided by skilled nursing facilities].

[Section 1. Scope of Operations and Services. Skilled nursing facilities are establishments with permanent facilities including inpatient beds. Services provided include medical services, and continuous nursing services to provide treatment for patients. Patients in a skilled nursing facility are patients who require inpatient care but are not in an acute phase of illness, and who currently require primarily convalescent or rehabilitative services and have a variety of medical conditions.]

Section 1. [2.] Definitions. (1) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Board" means the Commission for Health Economics Control in Kentucky.

(3) "Facility" means a skilled nursing facility.

(4) "License" means an authorization issued by the Board for the purpose of operating a skilled nursing facility and offering skilled nursing services.

(5) "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 or has completed the required supervised clinical experience period prerequisite to registration by the American Occupational Therapy Association.

(6) "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.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who 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 dietitian by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietitian.

(8) "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.

(9) "Qualified social worker" means a person who is licensed pursuant to KRS 335.090, if applicable, and who is a graduate of a school of social work accredited by the Council on Social Work Education.

(10) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(11) "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 2. Scope of Operations and Services. Skilled nursing facilities are establishments with permanent facilities including inpatient beds. Services provided include medical services, and continuous nursing services to provide treatment for patients. Patients in a skilled nursing facility are patients who require inpatient care but are not in an acute phase of illness, and who currently require primarily convalescent or rehabilitative services and have a variety of medical conditions.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator. All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(3) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Personnel policies, practices and procedures that support sound patient care.

(b) Notification of changes in patient status and service cost. There shall be written policies and procedures relating to notification of responsible person(s) in the event of significant changes in patient status, patient charges, billings, and other related administrative matters.

(c) Patient care policies. The facility shall have written policies to govern the skilled nursing care and related medical and other

services provided, which shall be developed with the advice of professional personnel, including one (1) or more physicians and one (1) or more registered nurses and other health personnel (e.g., social workers, dietitians, pharmacists, speech pathologists and audiologists, physical and occupational therapists and mental health personnel). Pharmacy policies and procedures shall be developed with the advice of a subgroup of physicians and pharmacists who serve as a pharmacy and therapeutics committee. A physician or a registered nurse shall be responsible for assuring compliance with and annual review of these policies. In addition to written policies for services, the facility shall have written policies to include:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility.

2. Medication stop orders;

3. Medical records;

4. Transfer agreement;

5. Utilization review; and

6. Use of restraints.

(d) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(e) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who require medical and continuous skilled nursing care and who currently require primarily convalescent or rehabilitative services for a variety of medical conditions. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. The facility shall obtain a medical evaluation within forty-eight (48) hours of admission, unless an evaluation was performed within five (5) days prior to admission. The medical evaluation shall include current medical findings, rehabilitation potential, a summary of the course of treatment followed in the hospital or intermediate care facility (a current hospital discharge summary containing the above information shall be acceptable).

(c) If the physician's orders for the immediate care of a patient are unobtainable at the time of admission, the facility shall contact the physician with responsibility for emergency care to obtain temporary orders.

(d) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility to include: fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(6) Discharge planning. The facility shall have a discharge planning program to assure the

continuity of care for patients being transferred to another health care facility or being discharged to the home.

(7) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt 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, shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient, and shall arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to an appropriate level of care.

(c) The agreement shall provide for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(d) When a transfer is to another level of care within the facility, the complete patient record or a current summary thereof shall be transferred with the patient.

(e) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least the following: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(f) Except in an emergency, the patient, his next of kin, or responsible person(s) if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(8) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, tuberculosis testing in long term care facilities.

(9) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. 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, evaluation of performance, records of in-service training and ongoing education, along with employee's name, address and social security number.

(c) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(d) Staffing classification requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a

twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients, and the amount and kind of personal care, nursing care, supervision, and program needed to meet the needs of the patients, as determined by medical orders and by services required by this regulation.

2. If the staff/patient ratio does not meet the needs of the patients, 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 facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, who shall be a registered nurse, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel;

b. Recommending to the administrator the number and level of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;

c. Assigning and supervising all levels of nursing personnel;

d. Participating in planning and budgeting for nursing care;

e. Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the professional policy advisory group;

f. Coordinating nursing services with other patient care services;

g. Planning and conducting orientation programs for new nursing personnel and continuing in-service education for all nursing personnel;

h. Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;

i. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary;

j. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

4. Supervising nurse. Nursing care shall be provided by or under the supervision of a full-time registered nurse. The supervising nurse shall be a licensed registered nurse who may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all

nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

5. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times and who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

6. Pharmacist. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multidisciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subsection (8)(d)7a of this section may be assigned duties appropriate to their training and experience.

8. Dietary. 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.

9. The administrator shall designate a person for each of the following areas who will be responsible for:

a. Medical records. The person responsible for the records shall maintain, complete and preserve all medical records. If the person is not a qualified medical record practitioner he shall be trained by and receive regular consultation from a qualified medical record practitioner.

b. Social services. There shall be a full-time or part-time social worker employed by the facility, or a person who has training and experience in related fields to find community resources, to be responsible for the social services. If the facility does not have a qualified social worker on its staff, consultation shall be provided by a qualified social worker. The person responsible for this area of service shall have information promptly available on health and welfare resources in the community.

c. Patient activities. This person shall have training or experience in directing group activities.

(e) In-service educational programs.

1. There shall be an in-service education program in effect for all nursing personnel at regular intervals in addition to a thorough job orientation for new personnel. Opportunities shall be provided for nursing personnel to attend training courses in rehabilitative nursing and other educational programs related to the care of long-term patients. Skill training for nonprofessional nursing personnel shall begin during the orientation period, to include demonstration, practice and supervision of simple nursing procedures applicable in the individual facility. It shall also include simple rehabilitative nursing procedures to be followed in emergencies. All patient care personnel shall be instructed and supervised in the care of emotionally disturbed and confused patients, and shall be assisted to understand the social aspects of patient care.

2. Social services training of staff. There shall be provisions for orientation and in-service training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons and recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one (1) from outside the facility, shall participate in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(10) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including 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, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, or an intermediate care facility if done within five (5) days prior to admission.)

3. The physician's orders for medication, diet, and therapeutic services. These shall be dated and signed by the physician.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication or prescription number, dosage and name of prescribing physician.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, visits by physician and phone calls to the physician, medically prescribed diets and restorative nursing measures.

8. Nursing supervisor's written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services.

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary completed, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) 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) Physician services.

(a) The health care of each patient shall be under supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first ninety (90) days following admission. Subsequent to the 90th day following admission, the patients shall be evaluated by a physician every sixty (60) days. There shall be evidence in the patient's medical record of the physician's visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of nonnursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

1. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to

achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patient's preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribed specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which include:
 - a. Services in speech pathology or audiology;
 - b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;
 - c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which includes:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self-care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) Procedures for administration of pharmaceutical services. The facility shall provide appropriate methods and procedures for obtaining, dispensing and administering of drugs and biologicals, which have been developed with the advice of a staff pharmacist, or a consultant pharmacist, in cooperation with the facility's pharmacy and therapeutics committee.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provisions for promptly and conveniently obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within

forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy or stop orders. The registered nurse or the pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review each patient's medications at the time of the medical evaluation pursuant to subsection (1)(b) of this section. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act of (KRS Chapter 314). Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient'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. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility 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 shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall 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 federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift

Labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and of sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

f. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance, remaining 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 patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

4. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. 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 (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such reports 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.

c. 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.

5. Infection control and communicable diseases.

a. There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

(i) Policies which address the prevention of disease transmission to and from patients, visitors and employees, including:

i. Universal blood and body fluid precautions;

ii. Precautions for infections which can be transmitted by the airborne route; and

iii. Work restrictions for employees with infectious diseases.

(ii) Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

b. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.

[c. The facility shall provide an AIDS and HIV training program for all staff who provide direct patient care, utilizing a preapproved curriculum obtained from: Cabinet for Human Resources, Department for Health Services, Division of Epidemiology, Communicable Diseases Branch, 275 East Main Street, Frankfort, Kentucky 40621.]

c. [d.] Sharp wastes.

(i) Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

(ii) Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

(iii) The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

d. [e.] Disposable waste.

(i) All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

(ii) The facility shall establish specific written policies regarding handling and disposal of all wastes.

(iii) The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

(iv) Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

e. [f.] Patients infected with the following diseases shall not be admitted to the facility: anthrax, campylobacteriosis, cholera, diphtheria, [encephalitis,] hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, yersiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus, and any other disease designated by the Commissioner for

Health Services as posing a threat to health in long-term care facilities].

[a. Except as provided by clauses b, c, and d of this subparagraph no patient who is infected with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations shall knowingly be admitted to the facility.]

[b. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.]

f. [g.] [c.] A facility may admit a (noninfectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

g. [h.] Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

[d. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met:]

[(i) Staff of facility have completed a training program approved by the cabinet.]

[(ii) The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents; and to follow if such an exposure occurs.]

[(iii) The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in clause d of this subparagraph are admissible to that facility, and which disease(s) are involved. Identifying information on these residents shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.]

h. [i.] [e.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the

transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be

maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs 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 all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories, and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

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 substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods 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 the 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 patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities 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).

(b) Housekeeping and maintenance services.

1. The facility 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 shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not

be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Hand-washing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, 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. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or

dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

WILLIAM M. GARDNER, Inspector General

HARRY J. COWHERD, M.D., Secretary

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CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(Amended After Hearing)

902 KAR 20:048. Operations and services; nursing homes.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990
STATUTORY AUTHORITY: KRS 216B.042 [216B.040], 216B.105(3)[, Executive Order 86-366]

NECESSITY AND FUNCTION: KRS 216B.042 [216B.040] and 216B.105(3) mandate that the Cabinet for Human Resources [Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board] regulate health facilities and health services. [Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General.] This regulation establishes [provides for the] licensure requirements for [the operation of] existing nursing homes [and the services to be provided by existing nursing homes]. This regulation does not address the establishment of new nursing homes.

[Section 1. Scope of Operations and Services. Nursing homes are establishments with permanent facilities that include inpatient beds. Services provided include medical services, and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services, and have a variety of medical conditions.]

Section 1. [2.] Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of

others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Commission on Health Economics Control in Kentucky.

(4) "Facility" means a nursing home facility.

(5) "License" means an authorization issued by the Board for the purpose of operating a nursing home and offering nursing home services.

(6) "PRN medications" means medications administered as needed.

(7) "Qualified dietitian" or "nutritionist" means:

(a) A person who 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 dietitian by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietitian.

(8) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(9) "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 2. Scope of Operations and Services. Nursing homes are establishments with permanent facilities that include inpatient beds. Services provided include medical services, and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services, and have a variety of medical conditions.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who have a variety of medical conditions and require medical services, continuous medical services, and inpatient care but do not currently require inpatient hospital services. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within forty-eight (48) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or nursing facility, if done within five (5) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of

patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt 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) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. 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, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs

of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, 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. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing personnel.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Planning and conducting orientation programs for new nursing personnel and continuing in-service education for all nursing personnel.

h. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

i. Assuring that a written monthly assessment of the patient's general condition is completed.

j. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary.

k. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

l. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. Supervising nurse. Nursing care shall be provided by or under the direction of a full-time registered nurse. The supervising nurse may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as

visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

7. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

8. Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

9. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multidisciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subsection (9)(c)9a of this section may be assigned duties appropriate to their training and experience.

10. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

11. Each facility shall designate a person for the following areas who will be responsible for:

a. Medical records;

b. Arranging for social services; and

c. Developing and implementing the activities program and therapeutic recreation.

12. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including 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, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within five (5) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's 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) Physician services.

(a) The health care of every patient shall be under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first sixty (60) days following admission. Subsequent to the 60th day following admission, the patients shall be evaluated by a physician

every sixty (60) days unless justified and documented by the attending physician in the patient's medical record. There shall be evidence in the patient's medical record of the physician visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of nonnursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

4. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patients preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribes specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which includes:

a. Service in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which include:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails

and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A registered nurse or pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review the patient's medical profile at least every two (2) months. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act (KRS Chapter 314) or by personnel who have completed a state approved training program. The administration of oral and topical medicines by certified medicine technicians shall be under the supervision of licensed medical or nursing personnel. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or

registered nurse. Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient'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. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility 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 shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall 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 federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

4. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance remaining 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 patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

5. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. 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 (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical 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.

c. 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.

6. Infection control and communicable diseases.

a. There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

(i) Policies which address the prevention of disease transmission to and from patients, visitors and employees, including:

- i. Universal blood and body fluid precautions;
- ii. Precautions for infections which can be transmitted by the airborne route; and
- iii. Work restrictions for employees with infectious diseases.

(ii) Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

b. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of

infections for all personnel responsible for direct patient care.

[c. The facility shall provide an AIDS and HIV training program for all staff who provide direct patient care, utilizing a preapproved curriculum obtained from: Cabinet for Human Resources, Department for Health Services, Division of Epidemiology, Communicable Diseases Branch, 275 East Main Street, Frankfort, Kentucky 40621.]

c. [d.] Sharp wastes.

(i) Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

(ii) Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

(iii) The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

d. [e.] Disposable waste.

(i) All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

(ii) The facility shall establish specific written policies regarding handling and disposal of all wastes.

(iii) The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

(iv) Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

e. [f.] Patients infected with the following diseases shall not be admitted to the facility: anthrax, campylobacteriosis, cholera, diphtheria, [encephalitis,] hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, yersiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus, and any other disease designated by the Commissioner for Health Services as posing a threat to health in long-term care facilities].

[a. Except as provided by clauses b, c, and d of this subparagraph, no patient who is infected with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations, shall knowingly be admitted to the facility.]

[b. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.]

f. [g.] [c.] A facility may admit a (noninfectious) tuberculosis patient under

continuing medical supervision for his tuberculosis disease.

g. [h.] Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

[d. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met:]

[(i) Staff of facility have completed a training program approved by the cabinet.]

[(ii) The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents; and to follow if such an exposure occurs.]

[(iii) The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in clause d of this subparagraph are admissible to that facility, and which disease(s) are involved. Identifying information on these residents shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.]

h. [i.] [e.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients, the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(11) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs 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 all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies

available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

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 substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods 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 the 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 patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities 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).

(b) Housekeeping and maintenance services.

1. The facility 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 shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and

odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Hand-washing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, 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. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

WILLIAM M. GARDNER, Inspector General

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 6, 1990

FILED WITH LRC: June 6, 1990 at noon

**CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(Amended After Hearing)**

902 KAR 20:051. Operation and services; intermediate care.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990
STATUTORY AUTHORITY: KRS 216B.042 [216B.040],
216B.105[(3), Executive Order 86-366]

NECESSITY AND FUNCTION: KRS 216B.042
[216B.040] and 216B.105[(3)] mandate that the Cabinet for Human Resources [Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board] regulate health facilities and health services. [Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General.] This regulation establishes [provides for the] licensure requirements for the operation of [intermediate care facilities] and [the] services [to be] provided by intermediate care facilities.

[Section 1. Scope of Operations and Services. Intermediate care facilities are establishments with permanent facilities including inpatient beds. Services provided include twenty-four (24) hour supervision of patients, services including physician, nursing, pharmaceutical, personal care, activities and residential services. Patients in an intermediate care facility must have a physical or mental condition that requires intermittent nursing services along with continuous supervision of the activities of daily living.]

Section 1. [2.] Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Commission on Health Economics Control in Kentucky.

(4) "Facility" means an intermediate care facility.

(5) "License" means an authorization issued by the Board for the purpose of operating an intermediate care facility and offering intermediate care services.

(6) "PRN medications" means medications administered as needed.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Qualified dietician" or "nutritionist" means:

(a) A person who 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) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(9) "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 2. Scope of Operations and Services. Intermediate care facilities are establishments with permanent facilities including inpatient beds. Services provided include twenty-four (24) hour supervision of patients, services including physician, nursing, pharmaceutical, personal care, activities and residential services. Patients in an intermediate care facility must have a physical or mental condition that requires intermittent nursing services along with continuous supervision of the activities of daily living.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence. The administrator shall not be the nursing services supervisor in a facility with more than sixty (60) beds.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility 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.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. The facility shall admit only persons who have a physical or mental condition which requires intermittent nursing services and continuous supervision of activities of daily living. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within seventy-two (72) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or long-term facility if done within fourteen (14) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt 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) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. 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, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount

and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, 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. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. Supervision of nursing services shall be by a registered nurse or licensed practical nurse employed on the day shift seven (7) days per week. The supervisor shall have training in rehabilitative nursing. When a licensed practical nurse serves as the supervisor, consultation shall be provided by a registered nurse at regular intervals, not less than four (4) hours weekly. The responsibilities of the nursing services supervisor shall include:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing care.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

h. Assuring that a written monthly assessment of the patient's general condition is completed.

i. Assuring that the establishment, review and modification of nursing care plans for each patient is done by licensed nursing personnel.

j. Assuring that all medications are administered by licensed personnel or by other personnel who have completed a state-approved training program.

k. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

8. Each facility shall designate a person for the following areas who will be responsible for:

a. Medical records;
b. Arranging for social services; and
c. Developing and implementing the activities program and therapeutic recreation.

9. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including 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, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within fourteen (14) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive, maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's 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) General requirements.

(a) Patient care equipment. There shall be a sufficient quantity of patient care equipment of satisfactory design and in good condition to carry out established patient care procedures. The equipment shall include:

1. Wheelchairs with brakes;
2. Walkers;
3. Bedside rails;
4. Bedpans and urinals (permanent or disposable);
5. Emesis basins and wash basins (permanent or disposable);
6. Footstools;
7. Bedside commodes;
8. Foot cradles;
9. Foot boards;
10. Under-the-mattress bed boards;
11. Trapeze frames;
12. Transfer board; and
13. An autoclave for sterilization of nursing equipment and supplies or an equivalent alternate method of sterilization.

(b) Infection control and communicable diseases.

1. There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

a. Policies which address the prevention of disease transmission to and from patients, visitors and employees, including:

- (i) Universal blood and body fluid precautions;
- (ii) Precautions for infections which can be transmitted by the airborne route; and
- (iii) Work restrictions for employees with infectious diseases.

b. Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

2. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.

[3. The facility shall provide an AIDS and HIV training program for all staff who provide direct patient care, utilizing a preapproved curriculum obtained from: Cabinet for Human Resources, Department for Health Services, Division of Epidemiology, Communicable Diseases Branch, 275 East Main Street, Frankfort, Kentucky 40621.]

3. [4.] Sharp wastes.

a. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

b. Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

c. The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the

Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

4. [5.] Disposable waste.

a. All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

b. The facility shall establish specific written policies regarding handling and disposal of all wastes.

c. The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

d. Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

5. [6.] Patients infected with the following diseases shall not be admitted to the facility unless the patient's attending physician certifies in writing that the condition of the patient is not communicable to others in the long-term care environment: anthrax, campylobacteriosis, cholera, diphtheria, [encephalitis,] hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, yersiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus, and any other disease designated by the Commissioner for Health Services as posing a threat to health in long-term care facilities]. If an attending physician is in doubt regarding the communicability of a patient's condition, he may contact the Department for Health Services.

[1. Except as provided by subparagraphs 2, 3 and 4 of this paragraph, no patient who is infected with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations.]

[2. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.]

7. [3.] A facility may admit a (noninfectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

8. Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

[4. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met:]

[a. Staff of facility have completed a training program approved by the cabinet. In addition, the facility shall have appropriately registered or licensed nurses on a twenty-four

(24) hour basis in order to meet the needs of these residents.]

[b. The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents; and to follow if such an exposure occurs.]

[c. The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in subparagraph 4 of this paragraph are admissible to that facility, and which disease(s) are involved. Identifying information on these residents shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.]

9. [5.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(c) Use of restraints or protective devices.

1. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care.

2. No form of restraints or protective devices shall be used except upon written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. 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 (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical 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.

c. 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.

(2) Physician services. All patients shall be under the medical supervision of a licensed physician. These services shall include:

(a) Physician's visit for medical evaluation as often as necessary and in no case less often than every sixty (60) days, unless justified and documented by the attending physician in the patient's medical report.

(b) Physician services for medical emergencies available on a twenty-four (24) hour, seven (7) days-a-week basis.

(3) Nursing services. Nursing services shall include:

(a) The establishment of a nursing care plan for each patient. Each plan shall be reviewed and modified as necessary, or at least quarterly. Each plan shall include goals and nursing care needs;

(b) Rehabilitative nursing care to achieve and maintain the highest degree of function, self-care and independence. Rehabilitative measures shall be practiced on a twenty-four (24) hour, seven (7) day week basis. Those procedures requiring medical approval shall be ordered by the attending physician. Rehabilitative measures shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist patients in maintaining good body alignment while standing, sitting, or lying in bed.

2. Exercises. Nursing personnel shall assist patients in maintaining maximum joint range of motion or active range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent patients to gain bowel and bladder control.

4. Training in activities of daily living. Nursing personnel shall encourage and when necessary teach patients to function at their maximum level in appropriate activities of daily living for as long as, and to the degree that, they are able.

5. Ambulation. Nursing personnel shall assist and encourage patients with daily ambulation unless otherwise ordered by the physician.

(c) Administration of medications including oral, rectal, hypodermic, and intramuscular;

(d) Written monthly assessment of the patient's general condition by licensed nursing personnel;

(e) Treatments such as: enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets;

(f) The recording of any changes, as they occur, in the patient's condition, actions, responses, attitudes, appetite, etc.

(g) Implementing a regular program to prevent decubiti with emphasis on the following:

1. Procedures to maintain cleanliness of the patient, his clothes and linens shall be followed each time the bed or the clothing is soiled. Rubber, plastic, or other type of linen protectors shall be properly cleaned and completely covered to prevent direct contact with the patient.

2. Special effort shall be made to assist the patient in being up and out of bed as much as his condition permits, unless medically contraindicated. If the patient cannot move himself, he shall have his position changed as often as necessary but not less than every two (2) hours.

(4) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department,

the licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(e) Medication requirement and services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing. Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A registered nurse or the pharmacist shall review each patient's medical profile monthly. Medications shall be reviewed at least quarterly by the attending or staff physician. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications shall be released to patients on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed nurses or personnel who have completed a state-approved training program. Each dose administered shall be recorded in the medical record. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse.

a. The nursing station shall have items required for the proper administration of medications.

b. Medications prescribed for one (1) patient shall not be administered to any other patient.

c. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician and a predischarge program under the supervision of a licensed nurse.

d. Medication errors and drug reactions shall be immediately reported to the patient's physician and pharmacist and an entry thereof made in the patient's medical record as well as on an incident report.

3. The facility shall provide up-to-date medication reference texts for use by the nursing staff (e.g., Physician's Desk Reference).

4. Labeling and storing medications. All medications shall be plainly labeled with the patient'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. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility 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 shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall 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 federal and state laws and regulations.

5. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient; the date, time, kind, dosage, balance remaining 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 patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

(5) Personal care services.

(a) All facilities shall provide services to assist patients to achieve and maintain good personal hygiene including the level of assistance necessary with:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the facility shall provide soap, clean towels, and wash cloths for each patient. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All patients shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

5. Washing, grooming, and cutting of hair.

(b) The staff shall encourage and assist the patients to dress in their own street clothing (unless otherwise indicated by the physician).

(6) Dental services. The facility shall assist patients in obtaining dental services. Conditions necessitating dental services shall be noted and such dental procedures and services provided shall be recorded in the patient's record.

(7) Social services. The facility shall provide or arrange for social services as needed by the patient.

(a) Social services shall be integrated with other elements of the plan of care.

(b) A plan for such care shall be recorded in the patient's record and periodically evaluated in conjunction with the patient's total plan of care.

(c) Social services records shall be

maintained as an integral part of case record maintained on each patient.

(8) Activities and therapeutic recreation.

(a) All facilities shall provide a program to stimulate physical and mental abilities to the fullest extent, to encourage and develop a sense of usefulness and self respect and to prevent, inhibit or correct the development of symptoms of physical and mental regression due to illness or old age. The program shall provide sufficient variety to meet the needs of the various types of patients in the facility. When possible, the patient shall be included in the planning of activities.

(b) All facilities shall meet the following program requirements:

1. Staff. A person designated by the administrator shall be responsible for the program.

2. A program shall be developed for each patient and shall be incorporated in the patient's plan of care and revised according to the patient's needs. Changes in his response to the program shall be recorded in the medical record.

3. There shall be a planned and supervised activity period each day. The schedule shall be current and posted.

4. The program shall be planned for group and individual activities, both within and outside of the facility, weather permitting.

5. The person responsible for activities shall maintain a current list of patients on which precautions are noted regarding a patient's condition that might restrict or modify his participation in the program.

6. A living or recreation room and outdoor recreational space shall be provided for patients and their guests.

7. The facility shall provide supplies and equipment for the activities program.

8. Reading materials, radios, games and TV sets shall be provided for the patients.

9. The program may include religious activities for each patient if it is the desire of the patient to participate. Requests from a patient to be seen by a clergyman shall be acted upon as soon as possible, and an area of private consultation shall be made available.

10. The facility shall allow the patient to leave the facility to visit, shop, attend church, or other social activities provided this does not endanger his health or safety.

(9) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(10) Residential care services. All facilities shall provide residential care services to all patients including: room accommodations, housekeeping and maintenance services, and dietary services. All facilities shall meet the following requirements relating to the provision of residential care services.

(a) Room accommodations.

1. Each patient shall be provided a standard size bed at least thirty-six (36) inches wide,

equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

(b) Housekeeping and maintenance services.

1. The facility 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 shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Hand-washing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered by the facility as often as is necessary. Patients' personal clothing shall be laundered by the facility unless the patient or

the patient's family accepts this responsibility. Patients capable of laundering their own personal clothing and wishing to do so may, instead, be provided the facilities to do so. Patient's personal clothing laundered by the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, 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. The compounds shall be stored under lock.

(c) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs 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 kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conferences.

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 substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods 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 the 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 patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or leftover food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities 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).

Section 5. Separability. If any clause, sentence, paragraph, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof, directly involved in the controversy in which the judgment was rendered.

WILLIAM M. GARDNER, Inspector General

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 6, 1990

FILED WITH LRC: June 6, 1990 at noon

CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(Amended After Hearing)

902 KAR 20:086. Operation and services; intermediate care facilities for the mentally retarded and developmentally disabled.

RELATES TO: KRS 216B.010 to 216B.131 [216B.130], 216B.990(1), (2), 222.210 et. seq.

STATUTORY AUTHORITY: KRS 216B.042 [216B.040], 216B.105[, Executive Order 86-366]

NECESSITY AND FUNCTION: KRS 216B.042 [216B.040] mandates that the Kentucky Cabinet for Human Resources [Health Facilities and Health Services Certificate of Need and Licensure Board] regulate health facilities and health services. [Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General.] This regulation provides [for the] licensure requirements for the operation and services of intermediate care facilities for the mentally retarded/developmentally disabled (MR/DD)..

[Section 1. Scope of Operation and Services. Intermediate care facilities for mentally retarded and developmentally disabled persons provide services for all age groups on a twenty-four (24) hour basis, seven (7) days a week, in an establishment with permanent facilities including resident beds for persons whose mental or physical condition requires developmental nursing services along with a planned program of active treatment. The facility provides special programs as indicated by individual care plans to maximize the resident's mental, physical, and social development in accordance with the normalization principle. The intermediate care facilities for the mentally retarded and developmentally disabled must comply with the facility specifications for Intermediate Care Facilities, 902 KAR 20:056.]

Section 1. [2.] Definitions. (1) "Active treatment" means daily participation, in accordance with an individual plan of care and service, in activities, experiences, or therapy which are part of a professionally developed and supervised program of health, social and/or rehabilitative services offered by or procured by contract or other written agreement by the institution for its residents.

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Aversive stimuli" means things or events that the resident finds unpleasant or painful that are used to immediately discourage undesired behavior.

(4) "Commission" means the Commission on Health Economics Control in Kentucky.]

(4) [(5)] "Developmental disability" means a severe chronic disability which is attributable to a mental or physical impairment or combination of mental and physical impairments manifested before the person attains the age of twenty-two (22) and is likely to continue indefinitely. This disability results in substantial limitations in three (3) or more areas of major life activity including

self-care, receptive and expressive language, learning, self direction, mobility, capacity for independent living and economic sufficiency and requires individually planned and coordinated services of a lifelong or extended duration.

(5) [(6)] "Developmental nursing services" means treatment of a person's developmental needs by designing interventions to modify the rate and/or direction of the individual's development especially in the areas of self-help skills, personal hygiene, and sex education while also meeting his physical and medical needs.

(6) [(7)] "Facility" means an intermediate care facility for the mentally retarded and the developmentally disabled (MR/DD).

(7) [(8)] "Induration" means a firm area in the skin which develops as a reaction to injected tuberculosis proteins when a person has tuberculosis infection. The diameter of the firm area is measured to the nearest millimeter to gauge the degree of reaction. A reaction of ten (10) millimeters or more of induration is considered highly indicative of tuberculosis infection.

(8) [(9)] "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation and individualized program planning and service implementation for the resident. The team is composed of relevant professionals, and may include the resident, the resident's family, or the guardian.

(9) [(10)] "License" means an authorization issued by the commission for the purpose of offering intermediate care MR/DD services.

(10) [(11)] "MR/DD" means the mentally retarded and the developmentally disabled persons.

(11) [(12)] "Normalization principle" is the utilization of means which are as culturally normative as possible in order to establish and maintain personal behavior and characteristics which are as culturally normative as possible.

(12) [(13)] "Qualified dietician or nutritionist" means:

(a) A person who 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) A person who has a masters degree in nutrition and is a member of the ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(13) [(14)] "Qualified occupational therapist" means a graduate of a program of occupational therapy approved by the Council on Medical Education of the American Medical Association and licensed in the state, if required.

(14) [(15)] "Qualified speech pathologist or audiologist" means a person who is licensed pursuant to KRS Chapter 334A who has been granted a certificate of clinical competence in the American Speech and Hearing Association or who has completed the equivalent education and experimental requirements for such a certificate.

(15) [(16)] "Qualified social worker" means a person who is licensed or exempt from licensure pursuant to KRS Chapter 335 with bachelor's degree in social work from an accredited program

or a bachelor's degree in a field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.

(16) [(17)] "A qualified mental retardation professional" means a person who has specialized training or one (1) year of experience in treating or working with the mentally retarded and/or developmental disabilities and is one (1) of the following:

(a) A psychologist with a master's degree from an accredited program;

(b) A licensed physician;

(c) A educator with a degree in education from an accredited program;

(d) A social worker who is licensed or exempt from licensure pursuant to KRS Chapter 335 with a bachelor's degree in:

1. Social work from an accredited program; or

2. A field other than social work and at least three (3) years of social work experience under the supervision of a qualified social workers;

(e) A physical or occupational therapist who is a graduate of a program of physical or occupational therapy approved by the Council on Medical Education of the American Medical Association.

(f) A speech pathologist or audiologist who is licensed pursuant to KRS Chapter 334A who has been granted a certificate of clinical competence in the American Speech and Hearing Association or who has completed the equivalent educational and experimental requirements for such a certificate;

(g) A registered nurse;

(h) A therapeutic recreation specialist who is graduate of an accredited program and is licensed in the state, if required, or who has:

1. A bachelor's degree in recreation, or in a speciality area, such as art, music, or physical education; or

2. An associate degree in recreation and one (1) year of experience in recreation; or

3. A high school diploma, or an equivalency certificate; and

a. Two (2) years of experience in recreation; or

b. One (1) year of experience in recreation plus completion of comprehensive in-service training in recreation; or

4. Demonstrated proficiency and experience in conducting activities in one (1) or more recreation program areas; or

(i) A "rehabilitation/counselor" who is certified by the Committee on Rehabilitation Counselor Certification.

(17) [(18)] "Restraint" means any chemical agent or any physical or mechanical device used to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, excluding only those devices used to provide support for the achievement of functional body position or proper balance (such as positioning chairs) and devices used for specific medical and surgical (as distinguished from behavioral) treatment.

(18) [(19)] "Seclusion" means the retention of a resident alone in a locked room.

(19) [(20)] "Skin test" means a tuberculin skin test utilizing the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD). The results of the test must be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(20) [(21)] "Two (2) step skin testing" means a series of two (2) tuberculin skin tests administered seven (7) to fourteen (14) days apart.

(21) [(22)] "Time out" means a procedure which involves removing the person from a reinforcing situation, for a period of time when the person engages in a specified inappropriate behavior.

Section 2. Scope of Operation and Services. Intermediate care facilities for mentally retarded and developmentally disabled persons provide services for all age groups on a twenty-four (24) hour basis, seven (7) days a week, in an establishment with permanent facilities including resident beds for persons whose mental or physical condition requires developmental nursing services along with a planned program of active treatment. The facility provides special programs as indicated by individual care plans to maximize the resident's mental, physical, and social development in accordance with the normalization principle. The intermediate care facilities for the mentally retarded and developmentally disabled must comply with the facility specifications for Intermediate Care Facilities. 902 KAR 20:056.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator. All facilities shall have an administrator who is responsible for the operation of the facility and delegating such responsibility in his absence. The administrator shall not be the nursing services supervisor.

(3) Contracted services. The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the residents. The contract shall be in writing.

(4) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological resident registry showing date of admission, name of resident and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(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 or nursing services supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(5) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Services including medical, nursing, habilitation, pharmaceutical (including medication stop orders policy), and residential services;

(b) Adult and child protection. The facility 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 199.335;

(c) Use of restraints. The facility shall have a written policy that defines the use of restraints and supportive devices and a mechanism for monitoring and controlling their use; and

(d) Missing resident procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a resident is determined to be lost, unaccounted for or other unauthorized absence.

(6) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(7) Admission.

(a) Patients shall be admitted only upon the approval of a physician. The facility shall admit only persons who have a physical or mental condition which requires developmental nursing services and a planned program of active treatment.

(b) The interdisciplinary team shall consist of a physician, a psychologist, a registered nurse, a social worker and other professionals, at least one of whom is a qualified mental retardation professional. The interdisciplinary team shall:

1. Conduct a comprehensive evaluation of the individual, not more than three (3) months before admission, covering physical, emotional, social, and cognitive factors; and

2. Prior to admission define the need for service without regard to availability of those services. The team shall review all available and applicable programs of care, treatment, and training and record its findings.

(c) If admission is not the best plan but the individual must be admitted nevertheless, the facility shall clearly acknowledge that the admission is inappropriate and initiate plans to actively explore alternatives;

(d) Before admission, the resident and a responsible member of his family or committee shall be informed in writing of the established policies of the facility and fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services offered; and

(e) The facility shall provide and maintain a system for identifying each resident's personal property and facilities for safekeeping of his declared valuables. Each resident's clothing and other property shall be reserved for his own use.

(8) Discharge planning. Prior to discharge the facility shall have a postinstitutional plan which identifies the residential setting and support services which would enable the resident to live in a less restrictive alternative to the current setting. Before a resident is released, the facility shall:

(a) Offer counseling to parents or guardians who requests the release of a resident concerning the advantages and disadvantages of the release;

(b) Plan for release of the resident, to assure that appropriate services are available in the resident's new environment, including protective supervision and other follow-up services; and

(c) Prepare and place in the resident's record a summary of findings, progress, and plans.

(9) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of

residents to other health care facilities which can provide a level of health care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into 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 resident, and shall establish responsibility for notifying the other institution promptly of the impending transfer of a resident and shall arrange for appropriate and safe transportation.

(b) When the resident's condition exceeds the scope of services of the facility, the resident, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the resident to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for residents to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the resident, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any resident.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the resident.

(f) If the resident is transferred to another health care facility or other community resource, a transfer form shall accompany the resident. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with a history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for resident care, and pertinent social information on the resident and family.

(10) Medical records.

(a) The facility shall maintain a record for each resident for:

1. Planning and continuous evaluation of the resident's habilitation program;
2. Furnishing documentary evidence of each resident's progress and response to his habilitation program; and
3. Protecting the rights of the residents, the facility and the staff.

(b) All entries in the resident's record shall be legible, dated and signed.

(c) At the time a resident is admitted, the facility must enter in the individual's record the following information:

1. Name, date of admission, birth date and place, citizenship status, marital status, and social security number;
2. Father's name and birthplace, mother's maiden name and birthplace, and parents' marital status;
3. Name and address of parents, legal guardian, and next of kin if needed;
4. Sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph;

5. Reason for admission or referral problem;
6. Type and legal status of admission;
7. Legal competency status;
8. Language spoken or understood;
9. Sources of support, including social security, veterans' benefits, and insurance;
10. Religious affiliation, if any;
11. Reports of the preadmission evaluations; and
12. Reports of previous histories and evaluations, if any.

(d) Within one (1) month after the admission of each resident, the ICF/MR must enter the following in the resident's record:

1. A report of the review and updating of the preadmission evaluation;
2. A prognosis that can be used for programming and placement; and
3. A comprehensive evaluation and individual program plan, designed by an interdisciplinary team.

(e) The facility must enter the following information in a resident's record during his residence:

1. Reports of accidents, seizures, illnesses, and treatments for these conditions;
2. Records of immunizations;
3. Records of all time periods that restraints were used, with justification and authorization for each;
4. Reports of regular, at least annual, review and evaluation of the program, developmental progress, and status of each resident;
5. Observations of the resident's response to his program to enable evaluation of its effectiveness;
6. Records of significant behavior incidents;
7. Records of family visits and contacts;
8. Records of attendance and absences;
9. Correspondence pertaining to the resident;
10. Periodic updates of the information recorded at the time of admission; and
11. Appropriate authorizations and consent.

(f) The ICF/MR must enter a discharge summary in the resident's record at the time he is discharged.

(11) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. 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, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements. The facility shall have adequate personnel to meet the needs of the residents on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of residents, the amount and the kind of personal care, nursing care, supervision and program needed to meet the needs of the resident as determined by the interdisciplinary team, and the services required by this regulation.

(d) The licensee shall have a qualified mental retardation professional who is responsible for:

1. Supervising the delivery of each resident's individual plan of care;
2. Supervising the delivery of training and habilitation services;

3. Integrating the various aspects of the facility program;

4. Recording each resident's progress; and

5. Initiating a periodic review of each individual plan of care for necessary changes.

(e) Each resident living unit, regardless of organization or design, must have, as a minimum, overall staff-resident ratios (allowing for a five (5) day work week plus holiday, vacation, and sick time) as follows unless program needs justify otherwise:

1. For units serving children under the age of six (6) years, severely and profoundly retarded, severely physically handicapped, or residents who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, the overall ratio is one (1) to two (2);

2. For units serving moderately retarded residents requiring habit training, the overall ratio is one (1) to two and five tenths (2.5); and

3. For units serving residents in vocational training programs and adults who work in sheltered employment situations, the overall ratio is one (1) to five (5).

(f) When 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.

(g) A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in case of injury, illness, or fire or other emergencies.

(h) Volunteers shall not be counted to make up minimum staffing requirements.

(i) Supervision of nursing services shall be by a registered nurse or licensed practical nurse employed on the day shift seven (7) days per week. The supervisor shall have training and experience in the field of developmental disabilities and mental retardation. When a licensed practical nurse serves as the supervisor, consultation shall be provided by a registered nurse preferably with a baccalaureate degree, at regular intervals, not less than four (4) hours weekly. The responsibilities of the nursing services supervisor shall include:

1. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job description for each level of nursing personnel;

2. Nursing service personnel at all levels of experience and competence shall be assigned responsibilities in accordance with their qualifications, delegate authority commensurate with their responsibility, and provide appropriate professional nursing supervision; and

3. Participate in the development and implementation of resident care policies.

(j) The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

(k) Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

(l) Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and

procedures of the facility.

(m) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted. The facility shall comply with the following tuberculosis testing requirements:

1. The skin test status of all staff members shall be documented in the employee's personnel record. A skin test shall be initiated on all new staff members before or during the first week of employment and the results shall be documented in the employee's personnel record within the first month of employment. No skin testing is required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed six (6) months of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis. Two (2) step skin testing is required for new employees over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration, unless they can document that they have had tuberculosis skin test within one (1) year prior to their current employment. All staff who have never had a skin test of ten (10) or more millimeters induration must be skin tested annually on or before the anniversary of their last skin test.

2. All staff who are found to have a skin test of ten (10) or more millimeters induration, on initial employment testing or annual testing, must receive a chest x-ray unless a chest x-ray within the previous two (2) months showed no evidence of tuberculosis or the individual can document the previous completion of a course of prophylactic treatment with isoniazid. Such employees shall be advised of the symptoms of the disease and instructed to report to their employer and seek medical attention promptly, if symptoms persist.

3. The administrator shall be responsible for ensuring that all skin tests and chest x-rays are done in accordance with paragraphs 1 and 2 of this subsection. All skin testing dates and results and all chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the administrator to the local health department having jurisdiction immediately upon becoming known: names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) or more millimeters of induration; names of staff who have a skin test of ten (10) millimeters or more induration at the time of employment; and all chest x-rays suspicious for tuberculosis.

5. Any staff whose skin test status changes on annual testing from less than ten (10) to ten (10) or more millimeters of induration shall be considered to be recently infected with *Mycobacterium tuberculosis*. Such recently infected persons who have no signs or symptoms of tuberculosis disease on chest x-ray or medical history should be given preventive therapy with isoniazid for six (6) months unless medically contraindicated, as determined by a licensed physician. Medications shall be administered to patients only upon the written order of a physician. If such individual is unable to take isoniazid therapy, the individual shall be advised of the clinical symptoms of the

disease, and have an interval medical history and a chest x-ray taken and evaluated for tuberculosis infection every six (6) months during the two (2) years following conversion for a total of five (5) chest x-rays.

6. Any staff who can document completion of preventive treatment with isoniazid shall be exempt from further screening requirements.

(n) The facility shall have a staff training program adequate for the size and nature of the facility with a person designated the responsibility for staff development and training. The program shall include:

1. Orientation for each new employee to acquaint him with the philosophy, organization, program, practices, and goals of the facility;

2. In-service training for any employee who has not achieved the desired level of competence;

3. Continuing in-service training for all employees to update and improve their skills; and

4. Supervisory and management training for each employee who is in, or a candidate for, a supervisory position.

Section 4. Provision of Services. (1) The professional interdisciplinary team shall assure that the health needs of the residents are met and that plans are developed for each resident which include treatments, medications, dietary requirements, and other program services. All activities shall reflect adherence to the normalization principle. The active treatment program shall assure:

(a) An individual written plan of care that sets forth measurable goals or objectives stated in terms of desirable behavior and that prescribes an integrated program of activities, experiences or therapies necessary for the individual to reach those goals or objectives. The plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he can presently or potentially achieve.

(b) Regular participation, in accordance with an individualized plan, in a program of activities that are designed to attain the optimum physical, intellectual, social, and vocational functioning of which a resident is capable.

(c) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. This must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individualized plan of care, assessment of his continuing need for institutional care, and consideration of alternate methods of care.

(2) Infection control and communicable Diseases.

(a) There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

1. Policies which address the prevention of disease transmission to and from patients, visitors and employees, including:

a. Universal blood and body fluid precautions;
b. Precautions for infections which can be transmitted by the airborne route; and
c. Work restrictions for employees with infectious diseases.

2. Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

(b) The facility shall provide in-service

education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.

[(c). The facility shall provide an AIDS and HIV training program for all staff who provide direct patient care, utilizing a preapproved curriculum obtained from: Cabinet for Human Resources, Department for Health Services, Division of Epidemiology, Communicable Diseases Branch, 275 East Main Street, Frankfort, Kentucky 40621.]

(c) [(d)] Sharp wastes.

1. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

2. Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

3. The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

(d) [(e)] Disposable waste.

1. All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

2. The facility shall establish specific written policies regarding handling and disposal of all wastes.

3. The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

4. Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

(e) [(f)] Patients infected with the following diseases shall not be admitted to the facility: anthrax, campylobacteriosis, cholera, diphtheria, [encephalitis], hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, versiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus[, and any other disease designated by the Commissioner for Health Services as posing a threat to health in long-term care facilities].

(f) [(g)] A facility may admit a (noninfectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

(g) [(h)] Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

[(a) No resident shall knowingly be admitted to the facility with a communicable disease which is reportable to the health department, pursuant to KRS 214 and applicable regulations except a (noninfectious) 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 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.]

(3) Use of control and discipline of residents.

(a) The facility must have written policies and procedures for the control and discipline of residents that are available in each living unit and to parents and guardians.

(b) The facility shall not allow:

1. Corporal punishment of a resident;
2. A resident to discipline another resident, unless it is done as part of an organized self-government program conducted in accordance with written policy; or
3. Seclusion of a resident.

(c) On orders of a physician, or in the case of an emergency until a physician is contacted, the facility may allow the use of physical restraint on a resident only if absolutely necessary to protect the resident from injuring himself or others but may not use physical restraint as punishment, for the convenience of the staff, or as a substitute for activities or treatment.

(d) The facility must have a written policy that specifies how and when physical restraint may be used, the staff members who must authorize its use, and the method for monitoring and controlling its use.

(e) An order for physical restraint may not be in effect longer than twelve (12) hours. Appropriately trained staff must check a resident placed in a physical restraint at least every thirty (30) minutes and keep a record of these checks. A resident who is in a physical restraint must be given an opportunity for motion and exercise for a period of not less than ten (10) minutes during each two (2) hours of restraint. Mechanical devices used for physical restraint must be designed and used in a way that causes the resident no physical injury and the least possible physical discomfort. Restraints that require lock and key shall not be used.

(f) Mechanical supports used as protective devices must be designed and applied under the supervision of a qualified professional, and in accordance with principles of good body alignment, concern for circulation, and allowance for change of position.

(g) The facility may not use chemical restraint excessively, as punishment, for the convenience of the staff, as a substitute for activities or treatment, or in quantities that interfere with a resident's habilitation program.

(h) Behavior modification programs involving the use of aversive stimuli or time-out devices shall be:

1. Reviewed and approved by the facility's human rights committee or a qualified mental retardation professional;
2. Conducted only with the consent of the affected resident's parents or legal guardian; and
3. Described in written plans that are kept on file in the ICF/MR.

(i) A physical restraint used as a time-out device may be applied only during behavior modification exercises and only in the presence of the trainer.

(j) Time-out devices and aversive stimuli may not be used for longer than one (1) hour, and

then only during the behavior modification program and only under the supervision of the trainer.

(4) Medical supervision of residents. The facility shall maintain policies and procedures to assure that each resident shall be under the medical supervision of a physician.

(a) The resident (or his guardian) shall be permitted his choice of physician.

(b) The physician shall visit the residents as often as necessary and in no case less often than every sixty (60) days, unless justified and documented by the attending physician.

(c) A complete medical evaluation to include social, physical, emotional, and cognitive factors shall be made of the person desiring or requiring institutionalization prior to, but not to exceed three (3) months before admission.

(d) Medical reevaluation at least annually shall be made by the resident's physician, a physician provided by a community service, or a registered visiting nurse, according to the resources for the community and the apparent needs of the resident receiving intermediate care.

(e) Formal arrangements shall be made to provide for medical emergencies on a twenty-four (24) hour, seven (7) days a week basis. This shall be the responsibility of the facility providing care.

(5) Health services. Health services shall include:

(a) The establishment of a nursing care plan as part of the total habilitation program for each resident. Each plan shall be reviewed and modified as necessary, or at least quarterly. Each plan shall include goals, and nursing care needs;

(b) Nursing care to achieve and maintain the highest degree of function, self-care and independence with those procedures requiring medical approval ordered by the attending physician. Nursing care shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist residents in maintaining good body alignment while standing, sitting, or lying in bed to prevent decubiti.

2. Exercises. Nursing personnel shall assist residents in maintaining maximum range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent residents to gain bowel and bladder control.

4. Training in habits of personal hygiene, family life, and sex education that includes but is not limited to family planning and venereal disease counseling.

5. Ambulation. Nursing personnel shall assist and encourage residents with daily ambulation unless otherwise ordered by the physician.

6. Administration of medications and appropriate treatment.

7. Written monthly assessment of the resident's general condition with any changes in the resident's condition, actions, responses, attitudes, or appetite recorded in the resident's record by licensed personnel.

(6) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacist.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(e) Medication requirement and services.

1. Conformance with physician's orders. All medications administered to residents shall be ordered in writing. Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. The pharmacist or nurse shall review the resident's medication profile on a regular basis. The resident's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the resident's therapeutic regimen is not interrupted. Medications shall be released to residents on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed nurses or personnel who have completed a state approved training program. Each dose administered shall be recorded in the medical record. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or a registered nurse.

a. The nursing station shall have items required for the proper administration of medication readily available.

b. Medications prescribed for one resident shall not be administered to any other resident.

c. Self-administration of medications by residents shall not be permitted except for drugs on special order of the resident's physician and a predischARGE program under the supervision of a licensed nurse as a part of the resident's treatment plan.

d. Medication errors and drug reactions shall be immediately reported to the resident's physician and pharmacist and an entry thereof made in the resident's medical record as well as on an incident report.

3. The facility shall provide up-to-date medication reference texts for use by the nursing staff (e.g., Physician's Desk Reference).

4. Labeling and storing medications. All medications shall 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. The medications of each resident shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility 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 shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharge resident until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

5. 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 record, in which is recorded the name of the resident, the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician 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 patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

(7) Personal care services.

(a) Each resident shall be trained to be as independent as possible to achieve and maintain good personal hygiene including:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the facility shall provide soap, clean towels, and wash cloths for each resident. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. 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.

5. Washing, grooming, and cutting of hair.

(b) Each resident who does not eliminate appropriately and independently must be in a regular, systematic toilet training program and a record must be kept of his progress in the program.

(c) A resident who is incontinent must be bathed or cleaned immediately upon voiding or soiling, unless specifically contraindicated by the training program, and all soiled items must be changed.

(d) The staff shall train and when necessary assist the residents to dress in their own street clothing (unless otherwise indicated by the physician).

(8) Dental services.

(a) Comprehensive dental services shall be provided and if not available within the facility, arrangements with specialists in the dental field will be made for such service.

1. Appropriate dental services shall be provided through personal contact with all

residents by dentists, dental hygienists, and dental assistants under the supervision of the dentists, health educators, and oral hygiene aids.

2. A dental professional shall participate, as appropriate on the interdisciplinary team serving the facility.

3. There shall be sufficient supporting personnel, equipment, and facilities available to the dental professional if dental services are delivered within the facility.

(b) Dental records shall be part of each resident's record.

(c) A dentist shall be responsible for insuring that direct care staff are instructed in the proper use of oral hygiene methods for residents.

(9) Social services.

(a) Social services shall be available either on staff or by formal arrangement with community resources for all residents and their families, including evaluation and counseling with referral to, and use of, other planning for community placement, discharge and follow up services rendered by or under the supervision of a social worker.

(b) The social worker of the intermediate care facility, providing services for the mentally retarded and developmentally disabled shall be under the supervision of a social worker who is a qualified mental retardation professional.

(c) Social services shall be integrated with other elements of the plan of care.

(d) A plan for such care shall be recorded in the resident's record and periodically evaluated in conjunction with resident's total plan of care.

(e) Social services records shall be maintained as an integral part of case record maintained on each resident.

(10) Recreation services. The facility shall coordinate recreational services with other services and programs provided to each resident and shall:

(a) Provide recreation equipment and supplies in a quantity and variety that is sufficient to carry out the stated objectives of the activities programs.

(b) Keep resident records that include periodic surveys of the residents' recreation interests and the extent and level of the residents' participation in the recreation program.

(c) Have enough qualified staff and support personnel available to carry out the various recreation services with the qualifications as defined in the definitions.

(11) Speech pathology and audiology services. The facility shall provide speech pathology and audiology services as needed to maximize the communication skills of residents needing such services. These services shall be provided by, or under the supervision of, a certified speech pathologist or audiologist who is a member of the interdisciplinary team.

(12) Occupational therapy.

(a) Occupational therapy shall be provided by or under the supervision of a qualified occupational therapist to residents as required by the resident's needs.

(b) The occupational therapist shall act upon the program designed by the professional interdisciplinary team of which the therapist is a member.

(13) Physical therapy.

(a) Physical therapy shall be provided by or under the supervision of a licensed physical therapist to residents as required by the resident's needs.

(b) The physical therapist shall act upon the program designed by the professional interdisciplinary team of which the therapist is a member.

(14) Psychological services. Psychological services as needed shall be provided by a licensed or certified psychologist pursuant to KRS Chapter 319 who shall participate in the evaluation and periodic review, individual treatment, and consultation and training of program staff as a member of the interdisciplinary team.

(15) Transportation.

(a) If transportation of residents is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for residents who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting residents to and from the facility if necessary for the resident's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(16) Residential care services. All facilities shall provide residential care services to all residents including: room accommodations, housekeeping and maintenance services, and dietary services. All facilities shall meet the following requirements relating to the provision of residential care services:

(a) Room accommodations.

1. Each resident shall be provided a standard size bed at least thirty-six (36) inches wide, equipped with substantial spring, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, an such bed covering as is required to keep the resident 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 facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chests or dressers with mirrors, a night light, and storage space for clothing and other possessions.

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.

6. Each living room or lounge area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

7. Dining room furnishings shall be adequate in number, well constructed, and of satisfactory design for the residents.

8. Each resident shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other residents.

(b) Housekeeping and maintenance services.

1. The facility 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 sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one resident shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Hand-washing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of residents or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Resident's personal clothing shall be laundered by the facility as often as necessary. Resident's personal clothing shall be laundered by the facility unless the resident or the resident's family accepts this responsibility. Residents capable of laundering their own personal clothing may 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.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the wide-walks, 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. The compounds shall be stored under lock.

(c) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the residents including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full time, part time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing

staff of the facility for recommendations on dietetic policies affecting resident care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours on duty, and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required from regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs 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 kept on file for thirty (30) days.

c. The daily menu shall include regular and all modified diets served within the facility based on a currently approved diet manual. The manual shall be available in the dietary department. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the resident's care with the resident and resident's chart through such methods as resident instruction, recording diet histories and through participation in rounds and conferences.

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 substantial 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. Foods 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 the food served, nutritious substitutions shall be offered.

e. All opened containers or leftover food items shall be covered and dated when refrigerated.

5. Serving of food. When a resident cannot be

served in the dining room, trays shall be provided and shall rest on firm supports. Sturdy tray stands of proper height shall be provided for residents able to be out of bed.

a. Correct positioning of the resident to receive his tray shall be the responsibility of the direct-care staff. Residents requiring help in eating shall be assisted according to their training plan.

b. Adaptive self-help devices shall be provided to contribute to the resident's

independence in eating, if assessments deem necessary.

6. Sanitation. All facilities 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).

WILLIAM M. GARDNER, Inspector General

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 6, 1990

FILED WITH LRC: June 6, 1990 at noon

PROPOSED AMENDMENTS RECEIVED THROUGH JUNE 15, 1990 AS OF 12 NOON

PERSONNEL BOARD
(Proposed Amendment)

101 KAR 1:335. Employee actions.

RELATES TO: KRS 18A.075, 18A.0751, 18A.115

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.075

NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 directs that comprehensive administrative regulations be promulgated by the Personnel Board for the classified service governing [promotion,] demotion, transfer, reinstatement and reemployment. KRS 18A.115 relates to promotion of career employees. [This regulation will replace 101 KAR 1:330 which includes repetition of statutory language which is being repealed.]

Section 1. Definitions; Work Station. (1) The official work station of employees assigned to an office is the street address where the office is located.

(2) The official work station of a field employee is that address to which the employee is assigned at the time of appointment to the employee's current position.

[Section 2. Promotion. (1) Promotions may be interagency or intra-agency.]

[(2) Any employee in the classified service, other than a career employee, may be promoted to a position in the unclassified service, but shall not have reversion rights to any position in the classified service. Any employee who was promoted or otherwise changed, with no break in service, from a position in the classified service to a position in the unclassified service prior to July 15, 1986, shall retain reversion rights as existed at the time of promotion or other action.]

Section 2. [3.] Demotion. (1) Demotions for cause shall be intra-agency only.

(2) If an employee with status requests in writing that he be demoted, the appointing authority may make a voluntary demotion. The written request shall be on a form prescribed by the Commissioner of Personnel and shall include a statement of the reason for the request, the effective date of the demotion, identifying information concerning the position demoted from and to, and a waiver of the right of appeal concerning the demotion. A copy of the request shall be forwarded to the Commissioner of Personnel.

(3) Voluntary demotions may be interagency or intra-agency.

Section 3. [4.] Transfers. (1) An employee with status may be transferred from one department to another department.

(2) Transfers may be on a voluntary or involuntary basis. Unless an employee requests a transfer in writing, such transfer shall be deemed to have been made on an involuntary basis. The appointing authority shall establish a reasonable basis for selecting an employee for involuntary transfer.

(3) If the transfer is on an involuntary

basis, the employee shall receive notice of his transfer prior to the effective date of transfer. Following notification of an involuntary transfer, an employee shall report for work at the work station to which transferred on the effective date of the transfer. The notice shall be in writing, shall state the effective date of the transfer, the reason for the transfer and the employee's selection for transfer, and the employee's obligation to report to the new work station. The notice shall also advise the employee that he has the right to appeal the transfer to the board within thirty (30) days of receipt of the notice, excluding the day that he received notification. When the employee is notified, copies of the notice shall be forwarded to the Commissioner of Personnel.

(4) If an involuntary transfer is to a position with a work station in a different county, the employee shall receive the notice specified in subsection (3) of this section at least thirty (30) days prior to the effective date of the transfer. The appointing authority shall pay the employee's travel expenses following transfer for up to thirty (30) days following the effective date of transfer, in accordance with administrative regulations relating to reimbursement of travel expenses, and shall pay the employee's moving expenses, if any, in accordance with the Finance and Administration Cabinet's Policy Procedure relating to Moving Expenses and Reimbursement. The notice specified in subsection (3) of this section shall advise the employee of these provisions.

(5) Involuntary transfers shall be intra-agency only.

(6) If an employee with status requests in writing that he be transferred, the appointing authority may make a voluntary transfer. The written request shall be on a form prescribed by the Commissioner of Personnel and shall include a statement of the reason for the request, the effective date of the transfer, identifying information concerning the position transferred from and to, and a waiver of the right to appeal concerning the transfer. A copy of this request shall be forwarded to the Commissioner of Personnel.

(7) Voluntary transfers may be interagency or intra-agency.

Section 4. [5.] Reinstatement. Reinstatement may be made upon request of the appointing authority and with the prior approval of the Commissioner of Personnel. Approval shall include a finding that the candidate for reinstatement meets the current qualifications for the former job classification. If the reinstatement is to a different job classification, the candidate shall pass the appropriate examination prior to reinstatement unless the employee has previously had status in that job classification.

JAMES M. SHAKE, Chairman

APPROVED BY AGENCY: June 8, 1990

FILED WITH LRC: June 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 1990 at 9:30 a.m. in Room 360, Capitol Annex

Building. Individuals interested in attending this hearing shall notify this agency in writing by July 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Commonwealth of Kentucky, Personnel Board, Room 372, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Arthur Hatterick, Jr.

(1) Type and number of entities affected: All state agencies with classified employees.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This regulation must apply to all classified employees and all state agencies with classified employees. Further tiering has not been utilized in the administrative regulations of the Personnel Board in that the board is a quasi-judicial body and as such has no latitude not granted by statute to utilize tiering methods.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The rules concerning standards for the establishment and maintenance of a merit system for state governmental units receiving federal grants in aid were issued by the Office of Personnel Management and became effective on February 9, 1979. These rules were revised April 4, 1983, and are now codified as 5

CFR Part 900, Subpart F, Sections 900.601-900.606 (48 FR 9209, March 4, 1983).

2. State compliance standards. The purpose of these regulations is to implement provisions of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to federally required merit personnel systems in state agencies. Certain federal grant programs require, as a condition of eligibility, that state agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific federal grant statutes and in other cases are required by regulations of the federal grantor agencies.

3. Minimum or uniform standards contained in the federal mandate. The standards required for a merit system of personnel administration include such merit principles as:

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.

(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The provisions of the federal merit standards recognizes fully the rights, powers and responsibility of state government and encourages innovation and allows for diversity in the design, execution and management of the system of personnel management, as provided by the Intergovernmental Personnel Act of 1970 if standards have certain specific requirements and options. The requirements and options have been exercised by the General Assembly in the enactment of KRS Chapter 18A and its delegation of duties and responsibilities to the State Personnel Board and the Department of Personnel.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This regulation to our knowledge is not stricter than the federal mandate.

PERSONNEL BOARD
(Proposed Amendment)

101 KAR 1:375. Employee grievances and complaints.

RELATES TO: KRS 18A.075, 18A.0751

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.0751

NECESSITY AND FUNCTION: KRS 18A.075 and 18A.0751 requires the Personnel Board to adopt comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. [This regulation will replace 101 KAR 1:370 which includes repetition of statutory language which is being repealed.]

Section 1. Definitions; Grievance. A grievance is a complaint filed by an employee which concerns some aspect of his conditions of employment over which his cabinet or agency has control and which has occurred or of which the employee has become aware, through the exercise of due diligence, within thirty (30) days prior to filing.

Section 2. General Provisions. (1) Any employee in the classified service who believes that he has been subjected to unfair or unjust treatment concerning his conditions of employment may file a grievance in accordance with this procedure.

(2) Any grievance concerning an action which is appealable directly to the board pursuant to KRS 18A.095 may also be filed with the cabinet or agency. The filing of a grievance with the cabinet or agency does not prohibit the employee from also filing an appeal with the board, however it shall not extend the thirty (30) day appeal period.

(3) Employees utilizing this procedure shall be entitled to file grievances without interference, coercion, discrimination, or reprisal.

(4) Appointing authorities shall inform all employees of the provisions of this regulation, or any modifications in the levels of review which have been approved by the Personnel Board for the employee's cabinet or agency pursuant to Section 4(7) of this regulation.

(5) The Commissioner of Personnel shall make available to the employees, through the appointing authorities, a uniform grievance form to be used for the filing a grievance. The form shall contain a notice in bold print that, if the grievance concerns an action appealable directly to the board pursuant to KRS 18A.095, the employee's right to file an appeal is not extended beyond thirty (30) days.

Section 3. Procedures. (1) A grievance shall be filed with the employee's immediate supervisor within thirty (30) days following occurrence or the employee becoming aware, through the exercise of due diligence, of the action which is the subject of the grievance.

(2) The employee shall set forth in writing the basis of his grievance or complaint together with the corrective action desired. If the employee wishes to submit additional information or documentation, he may attach it to the grievance.

(3) When a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, handicap or age forty (40) or over, the recipient shall

immediately notify the cabinet or agency EEO coordinator to comply with the affirmative action plan.

(4) Interviews to evaluate or investigate the grievance outside of normal work hours with the grievant or other employees shall entitle those employees to compensatory time.

(5) Interviews to evaluate or investigate the grievance held with the grievant or other employees shall not require the use of leave time.

(6) Both parties may have a representative present at each step of the grievance procedure.

Section 4. Grievance Levels. (1) The immediate supervisor shall, upon investigation, issue findings and a decision in writing to the employee within five (5) work days after receipt of the grievance. If the first line supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance within two (2) work days of receipt of the decision to the next appropriate level.

(2) The second line supervisor shall, upon investigation, issue findings and a decision in writing to the employee within five (5) work days after receipt of the grievance. If the second line supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance within two (2) work days of receipt of the decision to the next appropriate level.

(3) The third line supervisor shall, upon investigation, issue findings and a decision in writing to the employee within five (5) work days after receipt of the grievance. If the third line supervisor is unable to resolve the grievance to the satisfaction of the employee, the employee may request review of the grievance within two (2) work days of receipt of the decision to the fourth line supervisor.

(4) The fourth line supervisor shall, upon investigation, issue findings and a decision in writing to the employee within five (5) work days after receipt of the grievance.

(5) If the fourth line supervisor is unable to resolve the grievance to the satisfaction of the employee, the employee may request review of the grievance within two (2) work days of receipt of the decision to the appointing authority for a final determination. The appointing authority, upon investigation, shall issue findings and a final determination in writing to the employee within ten (10) work days.

[(6) The final determination of the appointing authority may be appealed to the Personnel Board within thirty (30) days of receipt, excluding the day the final determination is received. An appeal form shall be attached to the final determination of the appointing authority.]

[(6) [(7)] Modification of the procedures set forth in this section necessary to accommodate organizational structure within a cabinet or agency may be made only upon approval of the Personnel Board.

[(7) [(8)] Failure of supervisory or management personnel to respond within prescribed time limits automatically advances the grievance to the next review level, unless the time limits have been extended by agreement of the parties.

[(8) [(9)] Any intermediate grievance level may be waived by written agreement of the parties.

JAMES M. SHAKE, Chairman

APPROVED BY AGENCY: June 8, 1990

FILED WITH LRC: June 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 1990 at 9:30 a.m. in Room 360, Capitol Annex Building. Individuals interested in attending this hearing shall notify this agency in writing by July 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Commonwealth of Kentucky, Personnel Board, Room 372, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Arthur Hatterick, Jr.

(1) Type and number of entities affected: All state agencies with classified and unclassified employees.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Tiering has not been utilized in the administrative regulations of the Personnel Board in that the board is a quasi-judicial body and as such has no latitude not granted by statute to utilize tiering methods outlined in KRS 13A.210.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The rules concerning standards for the establishment and maintenance of a merit system for state governmental units receiving federal grants in aid were issued by the Office of Personnel Management and became

effective on February 9, 1979. These rules were revised April 4, 1983, and are now codified as 5 CFR Part 900, Subpart F, Sections 900.601-900.606 (48 FR 9209, March 4, 1983).

2. State compliance standards. The purpose of these regulations is to implement provisions of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to federally required merit personnel systems in state agencies. Certain federal grant programs require, as a condition of eligibility, that state agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific federal grant statutes and in other cases are required by regulations of the federal grantor agencies.

3. Minimum or uniform standards contained in the federal mandate. The standards required for a merit system of personnel administration include such merit principles as:

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.

(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The provisions of the federal merit standards recognizes fully the rights, powers and responsibility of state government and encourages innovation and allows for diversity in the design, execution and management of the system of personnel management, as provided by the Intergovernmental Personnel Act of 1970 if standards have certain specific requirements and options. The requirements and options have been exercised by the General Assembly in the enactment of KRS Chapter 18A and its delegation of duties and responsibilities to the State Personnel Board and the Department of Personnel.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This regulation to our knowledge is not stricter than the federal mandate.

FINANCE AND ADMINISTRATION CABINET
 Kentucky Retirement Systems
 (Proposed Amendment)

105 KAR 1:040. Actuarial assumptions and tables.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

STATUTORY AUTHORITY: KRS 16.040, 61.645, 61.670, 78.780

NECESSITY AND FUNCTION: KRS 16.645(3), 61.670 and 78.545(23) requires the Board to adopt actuarial tables for the administration of the County Employees Retirement System (CERS), Kentucky Employees Retirement System (KERS) and State Police Retirement System (SPRS) and for the annual determination of assets and liabilities of the systems. This regulation includes the actuarial assumptions adopted by the board for fiscal years beginning July 1, 1990, and these assumptions establish the basis for all actuarial tables used in the administration of the three (3) retirement systems.

Section 1. The following actuarial assumptions are adopted by the Board of Trustees of the Kentucky Retirement Systems as required under KRS 61.670 and shall be used to determine actuarial tables as are necessary for the administration of the Kentucky Employees Retirement System as provide by KRS 61.510 to 61.705, the County Employees Retirement System under KRS 78.510 to 78.852 and the State Police Retirement System under KRS 16.505 to 16.652. These assumptions shall also be used for the annual actuarial valuation for determination of assets and liabilities of these retirement systems.

(1) Kentucky Employees Retirement System and County Employees Retirement System nonhazardous position members actuarial assumptions:

Interest: Eight (8) percent.

Valuation of Investments: Book value.

Mortality: Preretirement - 1983 [1971] Group Annuity Mortality Table. Postretirement - same as preretirement. Mortality for members receiving disability allowances - Social Security Administration Disability Mortality Rates - Actuarial Study No. 75.

Turnover: Select and Ultimate Table as follows:

| Age | Years of Service | Terminations per 1,000 | |
|----------------------------|---------------------------|---------------------------|---------------------------|
| All ages | 0 to 1 | 250 | |
| All ages | 1 to 2 | 80 | |
| All ages | 2 to 3 | <u>50</u> [60] | |
| All ages | 3 to 4 | <u>40</u> [50] | |
| All ages | 4 to 5 | <u>35</u> [50] | |
| 5 OR MORE YEARS OF SERVICE | | | |
| Age | Terminations per 1,000 | Age | Terminations per 1,000 |
| 25 | <u>30</u> [45] | 40 | <u>25</u> [37.5] |
| 26 | <u>30</u> [45] | 41 | <u>25</u> [37.5] |
| 27 | <u>30</u> [45] | 42 | <u>25</u> [37.5] |
| 28 | <u>30</u> [45] | 43 | <u>25</u> [37.5] |
| 29 | <u>30</u> [45] | 44 | <u>25</u> [37.5] |

| | | | |
|----|---------|----|-------------|
| 30 | 30 [45] | 45 | 22.5 [33.8] |
| 31 | 30 [45] | 46 | 22.5 [33.8] |
| 32 | 30 [45] | 47 | 22.5 [33.8] |
| 33 | 30 [45] | 48 | 22.5 [33.8] |
| 34 | 30 [45] | 49 | 22.5 [33.8] |
| 35 | 30 [45] | 50 | 20 [30] |
| 36 | 30 [45] | 51 | 20 [30] |
| 37 | 30 [45] | 52 | 20 [30] |
| 38 | 30 [45] | 53 | 20 [30] |
| 39 | 30 [45] | 54 | 20 [30] |

| | |
|-------------|-----------|
| 55 | 15 [22.5] |
| 56 | 15 [22.5] |
| 57 | 15 [22.5] |
| 58 | 15 [22.5] |
| 59 | 15 [22.5] |
| 60 | 2.5 [3.8] |
| 61 and over | 0 |

Disability: Annual rates varying by age as follows:

[KERS & CERS & SPRS
 (Nonduty & Duty)]

| Age | Rate | Age | Rate |
|-----|---------|-----|---------|
| 25 | 0.00022 | 45 | 0.00138 |
| 26 | 0.00022 | 46 | 0.00138 |
| 27 | 0.00022 | 47 | 0.00138 |
| 28 | 0.00022 | 48 | 0.00138 |
| 29 | 0.00022 | 49 | 0.00138 |
| 30 | 0.00026 | 50 | 0.00282 |
| 31 | 0.00026 | 51 | 0.00282 |
| 32 | 0.00026 | 52 | 0.00282 |
| 33 | 0.00026 | 53 | 0.00282 |
| 34 | 0.00026 | 54 | 0.00282 |
| 35 | 0.00038 | 55 | 0.00529 |
| 36 | 0.00038 | 56 | 0.00529 |
| 37 | 0.00038 | 57 | 0.00529 |
| 38 | 0.00038 | 58 | 0.00529 |
| 39 | 0.00038 | 59 | 0.00529 |
| 40 | 0.00070 | 60 | 0.00930 |
| 41 | 0.00070 | 61 | 0.00930 |
| 42 | 0.00070 | 62 | 0.00930 |
| 43 | 0.00070 | 63 | 0.00930 |
| 44 | 0.00070 | 64 | 0.00930 |
| | | 65 | 0.00000 |

Retirement Rates: Early Retirement - At age 55-64, 20% are assumed to retire as soon as eligible for unreduced benefits. For other retirement rates, see table below.

Retirement Rates

| Age | Retirement Rate |
|-----------|-----------------|
| 55-57 | .03 |
| 58-59 | .04 |
| 60-61 | .05 |
| 62 | .25 |
| 63-64 | .10 |
| 65 | .50 |
| 66-67 | .20 |
| 68 | .25 |
| 69 | .40 |
| 70 & over | 1.00 |

Salary Increase: $6 \frac{1}{2}$ [7 $\frac{1}{2}$] % annually.

(2) State Police Retirement System, Kentucky Employees Retirement System and County Employees Retirement System hazardous members actuarial assumptions:

ADMINISTRATIVE REGISTER - 100

Interest: Eight (8) percent.

Valuation of Investments: Book value.

Mortality: Preretirement - 1983 [1971] Group Annuity Mortality Table, plus a duty death rate of 5 deaths per 10,000 employees per year. Postretirement - 1983 [1971] Group Annuity Mortality Table. Mortality of members receiving disability allowances - Social Security Administration Mortality Rates - Actuarial Study No. 75.

Turnover: Annual rates varying by age as follows:

| Age | Rate | Age | Rate |
|-----|--------|-----|--------|
| 25 | 0.0304 | 40 | 0.0150 |
| 26 | 0.0304 | 41 | 0.0150 |
| 27 | 0.0304 | 42 | 0.0150 |
| 28 | 0.0304 | 43 | 0.0150 |
| 29 | 0.0304 | 44 | 0.0150 |
| 30 | 0.0338 | 45 | 0.0075 |
| 31 | 0.0338 | 46 | 0.0075 |
| 32 | 0.0338 | 47 | 0.0075 |
| 33 | 0.0338 | 48 | 0.0075 |
| 34 | 0.0338 | 49 | 0.0075 |
| 35 | 0.0244 | 50 | 0.0000 |
| 36 | 0.0244 | 51 | 0.0000 |
| 37 | 0.0244 | 52 | 0.0000 |
| 38 | 0.0244 | 53 | 0.0000 |
| 39 | 0.0244 | 54 | 0.0000 |
| | | 55 | 0.0000 |

Disability: Annual rates varying by age as follows:

| Age | Rate |
|-----|---------|
| 25 | 0.00028 |
| 26 | 0.00028 |
| 27 | 0.00028 |
| 28 | 0.00028 |
| 29 | 0.00028 |
| 30 | 0.00033 |
| 31 | 0.00033 |
| 32 | 0.00033 |
| 33 | 0.00033 |
| 34 | 0.00033 |
| 35 | 0.00047 |
| 36 | 0.00047 |
| 37 | 0.00047 |
| 38 | 0.00047 |
| 39 | 0.00047 |
| 40 | 0.00088 |
| 41 | 0.00088 |
| 42 | 0.00088 |
| 43 | 0.00088 |
| 44 | 0.00088 |
| 45 | 0.00173 |
| 46 | 0.00173 |
| 47 | 0.00173 |
| 48 | 0.00173 |
| 49 | 0.00173 |
| 50 | 0.00353 |
| 51 | 0.00353 |
| 52 | 0.00353 |
| 53 | 0.00353 |
| 54 | 0.00353 |
| 55 | 0.00661 |
| 56 | 0.00661 |
| 57 | 0.00661 |
| 58 | 0.00661 |
| 59 | 0.00661 |
| 60 | 0.01162 |
| 61 | 0.01162 |
| 62 | 0.01162 |

| | |
|----|---------|
| 63 | 0.01162 |
| 64 | 0.01162 |
| 65 | 0.00000 |

Retirement Rates: SPRS - Assumed 50 [40]% will retire upon completion of twenty (20) years of service; all others will retire [upon completion of twenty (20) years of service and attainment of age 50, or] upon attainment of age 55. CERS Hazardous - Assumed that 50% will retire as soon as eligible for unreduced benefits and balance will continue to age 55; Normal Retirement as soon as eligible. KERS Hazardous - Assumed 50 [40]% will retire as soon as eligible for unreduced benefits and balance would continue until age 60.

Salary Increase: 6 1/2 [7 1/2]% annually.

*The actuarial assumptions for salary increases are based on analysis of retirement system accounts for the period ended June 30, 1989 [1985] and are not to be construed as a policy of the Commonwealth of Kentucky or local government as to the rate of salary increases an employee may expect to receive.

JOHN D. ROBEY, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 13, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 1990, at 9 a.m. at the Retirement Systems Office located at 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 18, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Pamala S. Johnson, General Manager, Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Pamala S. Johnson

(1) Type and number of entities affected: Approximately 1,140 state and local agencies and approximately 126,000 active and inactive members of the retirement systems.

(a) Direct and indirect costs or savings to those affected:

1. First year: Some increase in cost to members who purchase service credit based on age. No direct cost to agencies from this regulation.

2. Continuing costs or savings: Future costs will be determined by annual actuarial valuations in accordance with KRS 61.565.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
 - (b) Reporting and paperwork requirements: None
- (3) Assessment of anticipated effect on state and local revenues: None
- (4) Assessment of alternative methods; reasons why alternatives were rejected: These actuarial assumptions were changed in accordance with the requirements of KRS 61.670.
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
 - (a) Necessity of proposed regulation if in conflict:
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments: TIERING: Was tiering applied? Yes

FINANCE & ADMINISTRATION CABINET
Kentucky Board of Examiners of Psychology
(Proposed Amendment)

201 KAR 26:160. Fee schedule for applications for licensure as a psychologist, certification as a psychologist, certification as psychologist with autonomous functioning and certification as psychological associate.

RELATES TO: KRS 319.050, 319.058, 319.062, 319.064

STATUTORY AUTHORITY: KRS 319.032

NECESSITY AND FUNCTION: To establish a fee schedule for licensure as a psychologist, certification as a psychologist, certification as a psychologist with autonomous functioning, certification as a psychological associate pursuant to applicable statutes, to authorize the board to refund fees under certain conditions, and to establish a fee schedule for reexaminations.

Section 1. (1) The fee for application for licensure as a psychologist shall be computed as follows: [\$200.]

(a) A fifty (50) dollar application review fee;
(b) A \$135 fee for the taking of the examination for professional practice in psychology;

(c) A fifty (50) dollar fee for the taking of the structured oral examination.

If a candidate has previously taken the EPPP in another state and achieved a score which would be considered as passing in Kentucky, paragraph (b) of this subsection of the application fee shall be waived.

[(2) The application fee for certification as a certified psychologist shall be \$200.]

[(2) [(3)] The fee for application for certification as a certified psychologist with autonomous functioning shall be as follows:

(a) \$100 if the applicant has passed the Examination for Professional Practice in Psychology given by the board at one (1) standard deviation below the mean;

(b) \$200 if the applicant has not passed the Examination for Professional Practice in Psychology at one (1) standard deviation below the mean.

[(3) [(4)] The fee for application for

certification as a psychological associate shall be computed as follows: [\$200.]

(a) A fifty (50) dollar application review fee;
(b) A \$135 fee for the taking of the examination for professional practice in psychology.

If a candidate has previously taken the EPPP in another state and achieved a score which would be considered as passing in Kentucky, paragraph (b) of this subsection of the application fee shall be waived.

(4) Upon successful completion of all portions of the application and examination processes, the initial licensure or certification fees shall be as follows:

(a) Applicants for licensure and for certification with autonomous functioning shall pay \$200 for the first three (3) year period;

(b) Applicants for certification as a psychological associate shall pay \$150 for the first three (3) year period.

(5) Every three (3) years licensed psychologists and certified psychologists with autonomous functioning [and certificate holders] shall pay to the board a renewal fee of \$200 [100] and shall receive a renewal license or certificate.

(6) Every three (3) years certified psychologists and psychological associates shall pay to the board a renewal fee of \$150 and shall receive a renewal certification.

Section 2. (1) If the applicant fails the examination for professional practice in psychology and applies to retake this examination, the fee shall be \$135 [140].

(2) If the applicant fails the structured oral examination and applies to retake this examination, the fee shall be fifty (50) dollars.

(3) An application for licensure or certification by reciprocity must be accompanied by a fee of \$100.

Section 3. (1) The board may refund the fee for the EPPP and the fee for the structured oral examination, if applicable, [\$100 of the \$200 application fee] if the application has been approved, but is withdrawn prior to the applicant taking the examination for professional practice in psychology.

(2) The board may refund the fee for the EPPP and the fee for the structured oral examination, if applicable, [\$100 of the \$200 application fee] if the application to sit for this examination is denied.

STEPHEN T. DEMERS, Chairman

APPROVED BY AGENCY: June 15, 1990

FILED WITH LRC: June 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Monday, July 23, 1990 at 10 a.m., at the offices of the Division of Occupations and Professions, located at Berry Hill, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify Mr. David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40601, in writing by July 18, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript

of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written notification of intent to attend the public hearing or written comments on the proposed administrative regulation should be sent to: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Nicholas

(1) Type and number of entities affected: 497 licensed psychologists - 100; 145 certified psychologists with autonomous functioning - 100; 261 certified psychologists - \$50 each; 99 psychological associates - \$50 each.

(a) Direct and indirect costs or savings to those affected:

1. First year: Anniversary date of issue - 3 year license.

2. Continuing costs or savings: Additional revenue for the board.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body: No change.

(a) Direct and indirect costs or savings:

1. First year: See #1 above.

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 319.050; KRS 319.071.

(a) Necessity of proposed regulation if in conflict: The board is impoverished and cannot perform statutory functions without the increase in fees.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: KRS 319.032(12) provides for an increase in fees for good cause.

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable.

TOURISM CABINET

Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:110. Raccoon and opossum; training and shakeout seasons.

RELATES TO: KRS 150.010, 150.025, 150.360, 150.365, 150.370, 150.390, 150.399, 150.400, 150.410

STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the dog training and shakeout season for opossum and raccoon. This regulation is necessary for the continued protection and conservation of the species listed herein, and

to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The function of this regulation is to provide for the prudent taking of raccoons and opossum within reasonable limits based upon an adequate supply. This amendment is necessary to permit the restricted use of raccoon squealers during the dog training season and to change the shake-out season raccoon bag limit [minimize repetition and simplify the regulation].

Section 1. Night Training Season. (1) The night training season for opossum and raccoon dogs shall be February 1 through October 21, both dates inclusive.

(2) Neither species shall be taken during this period in any way, or by any method. During this period, the hunters shall not carry any firearms, slingshot, or any weapon, device or instrument, including climbers [or squealers], that is capable of injuring, enticing or forcing the animals from the tree or den. Carrying or using squealers during this period is allowed only by participants of department-approved raccoon field trials sanctioned by the following national clubs or associations: American Coon Hunters Association (ACHA), American Kennel Club/American Coon Hunters Association (AKC/ACHA), National Kennel Club (NKC), Professional Kennel Club (PKC), United Coon Hunters Association (UCHA) and the United Kennel Club (UKC). The restrictions in this subsection also apply to the day training of dogs as authorized by KRS 150.370(2).

Section 2. Shakeout Season. (1) Shakeout season shall be October 22 through the day of the closure of the ten (10) day deer gun season, both dates inclusive.

(2) During the shakeout season, opossum or raccoon may be taken by dog only. During this period, the hunters shall not carry any firearms, slingshot, or any weapon, device or instrument that is capable of injuring the animals. Hunters may use squealers, climbers, their hands, or any other method not injurious to the animals, but no person shall cut or otherwise damage any tree in an attempt to force or entice a raccoon or opossum from it. The use of smoke, fire or gases to drive the animal from the tree is prohibited.

(3) The sale of raccoon carcasses is prohibited at all times.

(4) Bag and possession limits; one (1) raccoon per hunter[, with no more than three (3) raccoons per party of three (3) or more hunters] while hunting during a twenty-four (24) hour period from noon to noon. There is no possession limit on raccoons except that no hunter or party of hunters shall possess more than the daily bag limit while hunting in the field. There is no bag or possession limit on opossum.

DON R. McCORMICK, Commissioner

MARY RAY OAKEN, Secretary

DAVID GODBY, Chairman

APPROVED BY AGENCY: June 14, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 25, 1990 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road,

Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 21, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Lauren E. Schaaf, Director of Wildlife, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: 36,000 raccoon hunters are expected to participate in the hunting season proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license. Indirect costs are determined by the individual, depending upon his level of participation.

1. First year: Persons participating in the hunting season proposed by this regulation would be required to possess a valid hunting license (\$8.50 for residents).

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcing the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is \$900,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: 36,000 raccoon hunters may be expected to expend money for equipment, transportation, food and lodging. The average annual expenditure for these items by Kentucky small game hunters is \$96.98 according to the 1980 National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to the necessary expenditures by raccoon hunters purchasing the required licenses and due to taxes levied upon items purchased.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only available alternative to regulated hunting is the unnecessary restriction or closure of the season. This alternative was rejected as

contrary to the conservation ethic which is based on the wise use of renewable resources and the fact that raccoon and opossum populations are at levels which can sustain a regulated harvest by sportsmen.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known.

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Only parts of local government will be affected.

3. State the aspect or service of local government to which this administrative regulation relates. The County Clerk's office serves as a distribution system for the hunting licenses required by this regulation. The County Circuit Courts are where violators of these regulations are prosecuted.

4. How does this administrative regulation affect the local government or any service it provides? The County Clerk's office personnel are involved in the sale of hunting licenses. This office receives a \$.75/license fee for selling the licenses. The County Circuit Courts are utilized for prosecution of cases made against violators of these regulations and recover their costs as the court cost portion of any levied fines.

CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on June [May] 15, 1990 and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

| | | | |
|--------------|--|--------------|---|
| KSR 01-00-09 | Public Information and News Media Relations | KSR 10-00-08 | Unit D - Safekeepers |
| KSR 01-00-10 | Entry Authorization for All Cameras and Tape Recorders Brought into the Institution | KSR 10-00-09 | Unit D - Hold Ticket Residents |
| KSR 01-00-14 | Extraordinary Occurrence Report | KSR 10-00-10 | Unit D - Inmate Legal Access |
| KSR 01-00-15 | Cooperation and Coordination with Oldham County Court | KSR 10-00-11 | Unit D - Behavior Problem Control |
| KSR 01-00-19 | Personal Service Contract Personnel | KSR 10-00-12 | Unit D - Designated Staff Visits |
| KSR 01-00-20 | Consent Decree Notification to Inmates | KSR 10-00-13 | Unit D - Property Room Access |
| KSR 02-00-01 | Inmate Canteen | KSR 11-00-01 | Meal Planning for the General Population |
| KSR 02-00-03 | Screening Disbursements from Inmate Personal Accounts | KSR 11-00-02 | Special Diets |
| KSR 02-00-11 | Inmate Personal Accounts | KSR 11-00-03 | Food Service Inspections (<u>Amended 6/15/90</u>) |
| KSR 02-00-12 | Institutional Funds and Issuance of Checks | KSR 11-00-04 | Dining Room Dress Code for Inmates |
| KSR 04-00-02 | Staff Training and Development | KSR 11-00-06 | Health Standards/Regulations for Food Service Employees (<u>Amended 6/15/90</u>) |
| KSR 05-00-01 | Officers' Daily Housing Security and Safety Log | KSR 11-00-07 | Early Chow Line Passes for Medically Designated Inmates |
| KSR 05-00-02 | Research Activities | KSR 12-00-01 | Inmate Summer Dress Regulations [(Amended 5/15/90)] |
| KSR 05-00-03 | Management Information Systems | KSR 12-00-02 | Sanitation and General Living Conditions |
| KSR 06-00-01 | Inmate Master File | KSR 12-00-03 | State Items Issued to Inmates |
| KSR 06-00-02 | Records Audit | KSR 12-00-07 | Regulations for Inmate Barbershop |
| KSR 06-00-03 | Kentucky Open Records Law and Release of Psychological/Psychiatric Information | KSR 13-00-01 | Identification of Mentally Retarded Inmates |
| KSR 07-00-02 | Institutional Tower Room Regulations | KSR 13-00-02 | Hospital Operations, Rules and Regulations (<u>Amended 6/15/90</u>) |
| KSR 07-00-04 | Handling of PCB Articles and Containers | KSR 13-00-03 | Medication for Inmates Leaving Institution Grounds |
| KSR 07-00-05 | Proper Removal of Transformers | KSR 13-00-04 | Medical and Dental Care |
| KSR 07-00-06 | Asbestos Abatement | KSR 13-00-05 | <u>Medical Records (Added 6/15/90)</u> |
| KSR 07-00-07 | Discharge Monitoring Report (DMR) [(Added 5/15/90)] | KSR 13-00-06 | Infection Control (<u>Amended 6/15/90</u>) |
| KSR 08-00-07 | Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family | KSR 13-00-07 | Referral of Inmates Considered to Have Severe Emotional Disturbances |
| KSR 08-00-08 | Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery | KSR 13-00-08 | Institutional Laboratory Procedures (<u>Amended 6/15/90</u>) |
| KSR 08-00-10 | Hazardous Chemicals and Material Safety Data Sheet | KSR 13-00-09 | Institutional Pharmacy Procedures |
| KSR 09-00-04 | Horizontal Gates/Box 1 Entry and Exit Procedure | KSR 13-00-10 | Requirements for Medical Personnel |
| KSR 09-00-05 | Gate I Entrance and Exit Procedure | KSR 13-00-11 | <u>Health Evaluation (Amended 6/15/90)</u> [Preliminary Health Evaluation and Establishment of Inmate Medical Record] |
| KSR 09-00-09 | Contraband, Dangerous Contraband and Search Policy | KSR 13-00-12 | Vision Care/Optomety Services |
| KSR 09-00-14 | Use of Force | KSR 13-00-14 | Periodic Health Examinations for Inmates (<u>Amended 6/15/90</u>) |
| KSR 09-00-21 | Crime Scene Camera | KSR 13-00-15 | Medical Alert System |
| KSR 09-00-22 | Collection, Preservation, and Identification of Physical Evidence | KSR 13-00-16 | Suicide Prevention and Intervention Program |
| KSR 09-00-23 | Drug Abuse Testing | KSR 13-00-17 | <u>Special Care (Added 6/15/90)</u> |
| KSR 09-00-25 | Inmate Motor Vehicle Operator's License | KSR 14-00-01 | Inmate Rights |
| KSR 09-00-26 | Contraband Outside Institutional Perimeter | KSR 14-00-02 | A/C Center and Unit D Inmate Access to Legal Aide Services |
| KSR 09-00-27 | Construction Crew Entry/Exit | KSR 14-00-04 | Inmate Grievance Procedure |
| KSR 09-00-28 | Restricted Areas | KSR 14-00-05 | Inmate Marriages |
| KSR 09-00-29 | Transportation of Inmates | KSR 14-00-06 | Inmate Legal Aides |
| KSR 09-00-30 | Parole Board | KSR 15-00-02 | Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s) |
| KSR 10-00-01 | Unit D - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation, Time and Attendance, and Unit Personnel Records | KSR 15-00-04 | Restoration of Forfeited Good Time |
| KSR 10-00-02 | Unit D - General Operational Procedures | KSR 15-00-05 | Differential Status for SU (QUIT) Inmates |
| KSR 10-00-03 | Unit D - Inmate Tracking System and Records System | KSR 15-00-06 | Inmate I.D. Cards |
| KSR 10-00-04 | Unit D - Administrative Segregation | KSR 15-00-07 | Inmate Rules and Discipline - Adjustment Committee Procedures |
| KSR 10-00-05 | Unit D - Disciplinary Segregation | KSR 15-00-08 | Firehouse Living Area |
| KSR 10-00-06 | Unit D - Protective Custody | KSR 15-00-10 | Program Services for Special Housing Placement |
| KSR 10-00-07 | Unit D - Geriatrics | KSR 15-01-01 | Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel |
| | | KSR 15-01-02 | Operational Procedures and Rules and Regulations for Unit A, B, & C: Staff Operational Procedures |
| | | KSR 15-01-03 | Inmate Rules and Regulations (<u>Amended 6/15/90</u>) |

KSR 15-01-04 Institutional Medical and Fire
Safety Service: Unit Application
KSR 15-01-05 Institutional Inmate Services
KSR 15-01-06 Operational Procedures and Rules
and Regulations for Unit A, B & C:
Inmate Housing Criteria and
Regulations, Honor Status and
General Population (Amended
6/15/90)
KSR 16-00-01 Visiting Regulations
KSR 16-00-02 Inmate Correspondence and Mailroom
Operations
KSR 16-00-03 Inmate Access to Telephones
[KSR 17-00-01 Housing Unit Assignment -
Assessment/Classification Center
(Deleted 6/15/90)]
KSR 17-00-03 Notifying Inmates' Families of
Admission and Procedures for Mail
and Visiting
[KSR 17-00-04 Assessment/Classification Center
Operations, Rules and Regulations
(Deleted 6/15/90)]
KSR 17-00-05 Dormitory 10 Operations
KSR 17-00-06 Identification Department
Admission and Discharge Procedures
(Amended 6/15/90)
KSR 17-00-07 Inmate Personal Property
KSR 17-00-08 Repair of Inmate Owned Appliances
by Outside Dealers
KSR 18-00-04 Returns from Other Institutions
KSR 18-00-05 Transfer of Residents to Kentucky
Correctional Psychiatric Center,
and Referral Procedure for
Residents Adjudicated Guilty but
Mentally Ill
KSR 18-00-06 Classification and Special Notice
Form
KSR 19-00-01 Inmate Work Incentives
KSR 19-00-02 On-the-job Training Program
KSR 19-00-03 Safety Inspections of Inmate Work
Assignment Locations
KSR 20-00-01 Vocational School Referral and
Release Process
KSR 20-00-03 Academic School Programs [(Amended
5/15/90)]
KSR 20-00-04 Criteria for Participation in
Jefferson Community College Program
Integration of Vocational and
Academic Education Programs
KSR 21-00-01 Legal Aide Office and Law Library
Services and Supervision
KSR 21-00-02 Inmate Library Services [(Amended
5/15/90)]
KSR 21-00-03 Library Services for Unit D
KSR 22-00-03 Inmate Organizations
KSR 22-00-07 Inmate News Magazine
KSR 23-00-02 Chaplain's Responsibility and
Inmate Access to Religious
Representatives
KSR 23-00-03 Religious Programming
KSR 25-00-01 Discharge of Residents to Hospital
or Nursing Home
KSR 25-00-02 Violations of Law or Code of
Conduct by Inmates on Parole
Furlough
KSR 25-00-03 Preparole Progress Report

JOHN T. WIGGINTON, Secretary

APPROVED BY AGENCY: June 15, 1990

FILED WITH LRC: June 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this
regulation has been scheduled for July 23, 1990
at 9 a.m., in the State Office Building
Auditorium. Those interested in attending this
hearing shall notify in writing: Barbara Jones,

Office of General Counsel, 5th Floor, State
Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara Jones

(1) Type and number of entities affected: 503
employees of the Kentucky State Reformatory,
1405 inmates, and all visitors to state
correctional institutions.

(a) Direct and indirect costs or savings to
those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing
costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative
body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs
involved with the implementation of the
regulations are included in the operational
budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing
costs: Same as 2(a)1.

(b) Reporting and paperwork requirements:
Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state
and local revenues: None

(4) Assessment of alternative methods; reasons
why alternatives were rejected: None

(5) Identify any statute, administrative
regulation or government policy which may be in
conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in
conflict:

(b) If in conflict, was effort made to
harmonize the proposed administrative regulation
with conflicting provisions:

(6) Any additional information or comments:
None

TIERING: Was tiering applied? No. All policies
are administered in a uniform manner.

TRANSPORTATION CABINET

Department of Vehicle Regulation

Division of Motor Carriers

Division of Motor Vehicle Enforcement
(Proposed Amendment)

601 KAR 1:025. Transporting hazardous
materials; permit.

RELATES TO: KRS 174.400 through 174.435, 49 CFR
STATUTORY AUTHORITY: KRS 174.410(2),
174.430(1), 49 CFR

NECESSITY AND FUNCTION: KRS 174.410(2)
provides that the Secretary of the
Transportation Cabinet, in consultation with the
Secretary of the Natural Resources and
Environmental Protection Cabinet and the
Secretary of the Cabinet for Human Resources,
shall adopt by reference or in its entirety, the
federal hazardous materials transportation
regulation, 49 CFR (1978), as amended, to
effectively carry out the intent of KRS 174.400
through 174.435. KRS 174.430(1) provides that
the Secretary of the Transportation Cabinet is
authorized to fix a reasonable fee, by
regulation, to be paid by applicants for a
general permit to transport radioactive
materials through or within the Commonwealth or

to transport other hazardous materials within the Commonwealth, and for the renewal of such permit. This regulation implements these statutory provisions.

Section 1. The hazardous materials transportation regulations adopted and issued by the United States Department of Transportation relating to the following subjects shall govern the transportation of hazardous materials within Kentucky:

(1) Title 49, Code of Federal Regulations, Part 171[, authorized July 31, 1989 and] effective June 4, 1990 [April 2, 1990 as amended by publications in the "Federal Register" on July 7, 1989, page 28750; August 29, 1989, pages 35651 - 35653; September 20, 1989, pages 38790 - 38799; September 25, 1989, pages 39324 - 39327; September 26, 1989, pages 39500 - 39506; September 29, 1989, pages 40066 - 40069; and October 10, 1989, page 41447]. Part 171 sets forth general information, regulations and definitions applicable to all hazardous materials transportation;

(2) Title 49, Code of Federal Regulations, Part 172[, authorized July 31, 1989 and] effective June 4, 1990 [April 2, 1990 as amended by publications in the "Federal Register" on July 7, 1989, page 28750; September 20, 1989, pages 38790 - 38799; September 26, 1989, pages 39500 - 39506; September 29, 1989, pages 40066 - 40069; and October 10, 1989, page 41447 - 41448]. Part 172 lists and classifies those materials which the United States Department of Transportation has designated as hazardous materials for purposes of transportation and prescribes the requirements for shipping papers, package marking, labeling and transport vehicle placarding applicable to the shipment and transportation of those hazardous materials;

(3) Title 49, Code of Federal Regulations, Part 175[, authorized June 19, 1989 and] effective June 4, 1990 [January 1, 1990 as amended by publication in the "Federal Register" on September 20, 1989, pages 38790 - 38799]. Part 175 includes requirements in addition to those contained in Parts 171, 172, and 173 which are applicable to aircraft operators transporting hazardous materials aboard, attached to or suspended from civil aircraft;

(4) Title 49, Code of Federal Regulations, Part 177, effective February 8, 1990 [December 12, 1989]. Part 177 includes requirements in addition to those contained in Parts 171, 172, and 173 which are applicable to private contract or common motor carriers transporting hazardous materials on public highways; and

(5) Title 49, Code of Federal Regulations, Part 178[, applicable June 12, 1989 and] effective December 12, 1989 [as amended by publications in the "Federal Register" on July 7, 1989, page 28750; September 20, 1989, pages 38790 - 38799; September 29, 1989, pages 40066 - 40069]. Part 178 prescribes the manufacturing and testing specifications for packaging and containers used for the transportation of hazardous materials.

(6) Title 49, Code of Federal Regulations, Part 180, effective February 12, 1990 [December 12, 1989]. Part 180 prescribes requirements pertaining to the maintenance, reconditioning, repair, inspection and any other function having an effect on the continuing qualification and use of a packaging used to transport hazardous materials.

Section 2. (1) Title 49, Code of Federal Regulations, Part 173 [authorized July 31, 1989 and] effective June 4, 1990 [April 2, 1990, as amended by publications in the "Federal Register" on July 7, 1989, page 28750; August 29, 1989, pages 35651 - 35653; September 20, 1989, pages 38790 - 38799; September 25, 1989, pages 39324 - 39327; September 26, 1989, pages 39500 - 39506; September 29, 1989, pages 40066 - 40069] is incorporated by reference but only as it is applicable to the shipment of hazardous materials by air or highway. Part 173 sets forth the general requirements which shippers are required to meet for shipments and packaging.

[Section 3. (1) The specific "Federal Register" publications listed in Section 1 of this administrative regulation are incorporated by reference.]

(2) This material incorporated by reference [in Sections 1 and 2 of this administrative regulation] is available for public inspection and copying in the Transportation Cabinet, Office of the Secretary, 10th Floor, State Office Building, Frankfort, Kentucky 40622. Office hours are from 8 a.m. to 4:30 p.m., local prevailing time on Monday through Friday.

Section 3. [4.] (1) Applicants for an annual general permit to transport radioactive materials through or within the Commonwealth or to transport other hazardous materials within the Commonwealth, and for the renewal of this [such] permit, shall pay to the Transportation Cabinet a fee of twenty-five (25) dollars.

(2) The applicant for a general permit shall submit his application to the Department of Vehicle Regulation in the [on] form[s] prescribed in subsection (3) of this section [and furnished] by the department. The department shall make the forms available to any applicant.

(3) The front page of the form shall read as follows:

TC 95-1

Kentucky
Transportation Cabinet
Department of Vehicle Regulation
Division of Motor Carriers
P. O. Box 2007
Frankfort, Kentucky 40602

Application For Permit For The Transportation of Hazardous Materials And/Or Radioactive Materials
(This application shall be accompanied by a \$25 filing fee)

CARRIER NAME:

STREET:

CITY:

STATE:

ZIP:

1. Type of Carrier: Private: For-Hire:

2. Classification of Hazardous or Radioactive Materials Transported:

INTERSTATE
Radioactive Material
Radioactive Waste

INTRASTATE
Hazardous Material
Hazardous Waste
Radioactive Material
Radioactive Waste

3. Individual associated with carrier who is designated to be contacted in event of emergency:

NAME: PHONE NUMBERS:
 During Business Hours ()
 After Business Hours ()

TITLE:
 ADDRESS (if different from above):

4. Description of emergency procedures which the carriers shall follow in the event of an emergency:

I, the undersigned official of the above company, state that the above information is true and correct.

NAME OFFICIAL TITLE

(4) The back page of the form shall inform the applicant of the basic requirements for application for a permit and shall contain the following:

IC 95-1

GENERAL INFORMATION REGARDING KENTUCKY'S
 HAZARDOUS/RADIOACTIVE MATERIAL
 Transportation Permit

The following information generally outlines the regulations of the Division of Motor Carrier's hazardous radioactive materials transportation requirements. If you have specific questions, contact the Division of Motor Carriers at the address or the telephone number below.

A general permit may be issued to any carrier who transports radioactive materials, either interstate or intrastate, and any carrier who transports hazardous materials intrastate in Kentucky. Needed definition follow:

"CARRIER" means a person engaged in the commercial transportation of passenger or property by land as a common, contract or private carrier or civil aircraft; except for those transporting passengers or property by pipelines, railways, or waterways.

"HAZARDOUS MATERIAL" means a substance designed as hazardous by the *Federal Hazardous Materials Transportation Act (49 U.S.C. 1801, et seq.) or the federal regulations adopted pursuant thereto.

Exception: Hazardous material shall not include agricultural wastes, coal mining wastes, utility waste (fly ash, bottom ash, scrubber sludge) sludge from water treatment and sewage treatment facilities, cement kiln dust, gas and oil drilling muds, oil production brines or waste oil.

"RADIOACTIVE MATERIAL" means any material or combination of materials which spontaneously emit ionizing radiation.

The provisions of this permit do not apply to hazardous materials shipped by or for the U.S. government for military or national security purposes.

Vehicles used in the transportation of fuels to end users are also exempt from these requirements.

TO OBTAIN THIS PERMIT, THE FOLLOWING PROCEDURE SHALL BE FOLLOWED:

(1) Complete and return the application (TC

95-1) to the Kentucky Transportation Cabinet, Division of Motor Carriers, with the required \$25 yearly fee. A COPY OF THIS APPLICATION IS ON THE REVERSE SIDE.

(2) Applicant shall have on file with the Division an approved certificate of public liability and property damage insurance in the minimum amounts set forth in KRS 281.655.

These minimum limits are:

- (a) Petroleum or Petroleum Products Less than 10,000 lbs. - \$100,000/300,000/50,000
- (b) All other hazardous/radioactive material as defined in KRS 174.405 - \$100,000 SINGLE LIMIT COVERAGE

*The cabinet has adopted, by reference, the federal hazardous materials transportation regulations, 49 CFR (1978), as amended, in their entirety. Those parts pertaining to railways, pipeline and waterways are specifically excluded.

The cabinet may issue a permit based upon the information contained in the application. A COPY OF THIS PERMIT SHALL BE CARRIED IN THE TRANSPORTING VEHICLE WHILE IN THE COMMONWEALTH OF KENTUCKY. Each carrier shall be assigned only one permit, and you are given permission to photostat a copy for each vehicle operating under your authority and your permit. The general permit shall be renewed annually.

This permit does not preclude or encompass any other document required by Kentucky law. A carrier shall comply with all other applicable requirements for the transportation of hazardous materials within the Commonwealth.

PLEASE ADDRESS ALL MAIL TO:

KENTUCKY DEPARTMENT OF VEHICLE REGULATION
 DIVISION OF MOTOR CARRIERS
 QUALIFICATIONS/PERMITS BRANCH
 POST OFFICE BOX 2007
 FRANKFORT, KENTUCKY 40602
 Phone: (502) 564-4540

JEROME LENTZ, Commissioner
 MILO D. BRYANT, Secretary

APPROVED BY AGENCY: May 23, 1990

FILED WITH LRC: June 14, 1990 at 10 a.m.

PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on July 25, 1990 at 1:30 p.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by July 20, 1990 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until July 20, 1990. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All transporters of hazardous materials in Kentucky.

(a) Direct and indirect costs or savings to those affected: (1)(a) This proposed amendment adopts changes to the 49 CFR Parts included in this administrative regulation. These changes were published in the "Federal Register" on December 4, 1989; December 12, 1989; January 5, 1990; January 10, 1990; and February 8, 1990. The majority of the changes were editorial corrections and clarifications with no actual impact on the transportation of hazardous materials. One of the changes was to the effective date of the material adopted (from April 2, 1990 to June 4, 1990). The changes of significance are as follows:

1. Use of trade name rather than technical name of a product is forbidden on the shipping papers to allow for quicker identification of a hazardous material if involved in an accident while being shipped.

2. Removal of the requirement that all shipments of hazardous materials by air have a 24-hour emergency response number on the shipping papers. If the material being shipped is marginally hazardous and not required to have shipping papers, the 24-hour response line will no longer be required.

3. Deletion of a USDOT policy statement entitled "Relationship Between Routing Requirements in Part 77 With State and Local Requirements". A federal court determined that this was a "generic determination of inconsistency" and therefore not necessary.

Because of the minor nature of all of these changes there will be no cost to transporters of hazardous materials in Kentucky.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Two alternatives exist to the regulation amendment as proposed. The do-nothing alternative was rejected because of the requirement in KRS Chapter 174 that the federal regulations be adopted. Therefore, the new federal regulations are proposed to be adopted because all changes are currently allowed by US DOT. We don't want a carrier to be cited for complying with the new federal requirements.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal government does not mandate that hazardous materials be regulated on an intrastate basis. However, KRS 174.410 mandates the adoption of 49 CFR to carry out the intent of KRS 174.400 to 174.435.

2. State compliance standards. The state regulations are only applicable to the transportation of hazardous materials by highway and air. Pipelines, water and rail are specifically excluded by the authorizing statute.

3. Minimum or uniform standards contained in the federal mandate. The federal regulations include regulation of hazardous materials by pipeline and rail. Those parts of the federal regulations are omitted or amended to exclude pipeline and rail from that adopted in this administrative regulation.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state regulation imposes a small permit fee not found in the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The permit fee is allowed by KRS 174.430.

TRANSPORTATION CABINET

Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 14:010. Headgear and eye-protective devices.

RELATES TO: KRS 189.285, 49 CFR Part 571.218, SB 158, §2 (1990 RS)

STATUTORY AUTHORITY: KRS 174.080, 189.285, 49 CFR Part 571.218, SB 158, §2 (1990 RS)

NECESSITY AND FUNCTION: KRS 189.285 requires the Secretary of Transportation, by regulation, to fix minimum standards for approved protective headgear, approved eye-protective devices, and prescribe the manner in which they shall be used. He is also required to maintain and cause to be published a list of approved protective headgear and approved eye-protective devices. Further, he is required to prescribe headgear for use with all-terrain vehicles when they are not being operated for agricultural purposes. This regulation is designed to comply with the statutory requirements.

Section 1. No person shall operate or ride as a passenger on a motorcycle unless the [such] person wears protective headgear which meets the standards set forth in Section 4 [3] of this regulation.

Section 2. The protective headgear required when operating an all-terrain vehicle shall meet the standards set forth in Section 4 of this regulation.

Section 2. [3.] No person shall operate or ride as a passenger on a motorcycle unless such

person wears an eye-protective device which meets the standards set forth in Section 5 [4] of this regulation.

Section 4. [3.] Federal Motor Vehicle Safety Standards; Motorcycle Helmets as set forth in 49 CFR Part 571.218 effective October 3, 1988 adopted and issued by the National Highway Traffic Safety Administration, U.S. Department of Transportation, specifies the standards for approved protective headgear to be followed in Kentucky.

Section 5. [4.] (1) Minimum Requirements for Motorcyclists' Eye Protection, adopted August 5, 1971, and amended July, 1980 by the Vehicle Equipment Safety Commission are hereby adopted and incorporated by reference in this administrative regulation.

(2) A copy of the standards cited in subsection (1) of this section may be viewed at the Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622, between 8 a.m. and 4:30 p.m. eastern time on weekdays.

Section 6. [5.] The following shall constitute the lists of approved protective headgear and approved eye-protective devices as contemplated by KRS 189.285:

(1) For protective headgear, any motorcycle helmet which has been permanently and legibly labeled with the symbol "DOT". The symbol shall appear on the outer surface in a color that contrasts with the background; in letters at least one (1) centimeter high. It shall be located a minimum of two and nine-tenths (2.9) centimeters and a maximum of three and five-tenths (3.5) centimeters from the bottom edge of the posterior of the helmet.

(2) For eye protective devices, any motorcyclists' eye protection which has been permanently and legibly marked on the structure of each lens in a manner so as not to interfere with the vision of the wearer either "VESC-8" or where space is limited "V-8".

[Section 6. A copy of the standards cited in Section 4 of this administrative regulation may be viewed at the Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.]

JEROME L. LENTZ, Acting Commissioner
MILO D. BRYANT, Secretary

APPROVED BY AGENCY: May 22, 1990

FILED WITH LRC: May 30, 1990 at 10 a.m.

PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on July 25, 1990, at 9 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by July 20, 1990, so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the

administrative regulation. If the hearing is cancelled, written comments will only be accepted until July 20, 1990. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All operators of all-terrain vehicles not engaged in agricultural operations.

(a) Direct and indirect costs or savings to those affected: Cost of purchasing a safety helmet.

1. First year: \$35 - \$60 a piece.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: The possibility of requiring a bicycle-type helmet or a motorcycle helmet was considered. It was rejected because there are not standards available for bicycle helmets and because Senator Trevey who sponsored SB 158 testified before the House and Senate Transportation Committees that he intended the all-terrain vehicle operators to wear a motorcycle-type helmet.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: SB 158 passed in the 1990 Regular Session mandated protective headgear for operators of all-terrain vehicles.

TIERING: Was tiering applied? No. The safety standards adopted in the administrative regulation are national standards. Therefore, everyone should be equally protected.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 3:200. Management Assistance Program.

RELATES TO: KRS 156.031, 158.780, 158.785
STATUTORY AUTHORITY: KRS 156.070, 158.780

NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be

reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; and KRS 158.780 and 158.785 require the Superintendent of Public Instruction to identify to the State Board for Elementary and Secondary [of] Education each year a minimum of five (5) districts with critical management deficiencies and in need of the resources of a management assistance team. This regulation prescribes the selection criteria for such a program.

Section 1. Districts participating in the Management Assistance Program mandated by KRS 158.780 and 158.785 shall be selected based upon the following criteria:

(1) The planning, maintenance and operation of physical plants [(weight 12.3 percent)]:

(a) Percent adjusted operation cost (obtained from local districts' annual financial reports collected by the Division of School District Finance [Management and Audit]). The 600 codes (operation of plant) shall be [are] adjusted to exclude utility costs. Total current expense (sum of expenditures for administration, instruction, attendance, health, transportation, plant operation, plant maintenance and fixed charges) is adjusted by excluding transportation expenditures. Adjusted operation cost shall [is] then be divided by adjusted current expense. The most recent three (3) prior years' data shall be used.

(b) Percent maintenance cost. The total of the 700 codes (maintenance of plant) shall be [is] divided by adjusted total current expense. The most recent three (3) prior fiscal years' data shall be used.

(2) The maintenance and operation of student transportation systems [(weight 3.1 percent)]:

(a) Graph adjusted efficiency cost (data shall be [is] obtained from local districts' annual financial reports and the superintendent's annual statistical reports collected by the Division of Pupil Attendance). This factor compares actual expenditures to computer generated density cost analysis to determine efficiency of transportation operation. The most recent three (3) prior fiscal years' data shall be used.

(3) Personnel administration [(weight 12.3 percent)]:

[(a) Percent sick leave. The sum of Codes 223.01 and 223.02 (elementary and secondary substitute teacher - sick leave) is divided by the total expenditures for instruction (annual financial report).]

[(b) Percent of classes out of field (obtained from professional staff data forms and certification files). The total number of classes being taught out of field is divided by the total number of classes offered.]

[(c)] Percent noncertified staff (obtained from school data files collected by the Division of Computer Services and professional staff data forms). The total number of noncertified staff, less noncertified transportation employees, shall be [is] divided by the total number of certified staff. The most recent three (3) prior fiscal years' data shall be used.

(4) Governance and executive leadership [(weight 9.2 percent)]: deficit school districts (obtained from annual financial reports collected by the Division of School District Finance [Management and Audit]).

(5) Fiscal management [(weight 26.2 percent)]:

(a) Percent administrative cost. The total cost of administration (100 codes less lines 117 and 151) is divided by the total adjusted current expense (annual financial report). The most recent three (3) prior fiscal years' data shall be used.

[(b) Percent investment income. Receipt Code 31.00 is divided by total receipts (annual financial report).]

(b) [(c)] Percent instruction expenditures. Total instructional expenditure shall be [is] divided by total adjusted current expense (annual financial report). The most recent three (3) prior years' data shall be used.

(6) Professional performance, staff development and evaluation (the most recent school year data shall be used [weight 24.6 percent]):

[(a) Percent certified staff Rank II and above (obtained from professional staff data forms collected by Division of School Management and Audit). The total number of Rank II and above is divided by the total number of certified staff.]

[(b) Test scores (Normal Curve Equivalent Grade 7);]

[(c) Test scores (Normal Curve Equivalent Grade 10);]

(a) [(d)] Test scores (Normal Curve Equivalent Grade 7) compared to unadjusted anticipated test scores (Normal Curve Equivalent Grade 7);

(b) [(e)] Test scores (Normal Curve Equivalent Grade 10) compared to unadjusted anticipated scores (Normal Curve Equivalent Grade 10).

(7) School-community relations (the most recent prior fiscal years' data shall be used [weight 12.3 percent]):

(a) Percent attendance.

(b) Dropout rate.

Section 2. As soon as practicable in 1990 and prior to August 1 in succeeding years, the chief state school officer [Superintendent of Public Instruction] shall recommend to the State Board for Elementary and Secondary [of] Education for the board's approval a minimum of five (5) local school districts each year identified as being in the listing [lowest decile] of the local school districts which have been either deficit school districts or having at least three (3) indicators more than one and one-half (1 1/2) standard deviations away from the mean, [based on a composite rank resulting in the measurement of management efficiency when school districts are compared on each] of the criteria in Section 1 of this regulation. Districts with average daily attendance of less than 600 or more than 20,000 are exempted provided, however, that any district with a financial deficit shall be included in the program. [After the first year (1986-87 school year) of the Management Assistance Program, any district identified and selected by the state board which refuses management assistance and which has identified deficiencies and required Master Educational Improvement Plan/subplans according to 704 KAR 3:005 shall not have such Master Educational Improvement Plan approved and shall be assessed under the provisions of 704 KAR 3:005.]

Section 3. The chief state school officer [Superintendent of Public Instruction] shall provide the state board, for its approval, agreements to accept management assistance, signed by respective districts. A plan of action shall be developed and become a part of the

agreement. The plan of action shall specify the needs of the district, the personnel involved and the time frame for accomplishment, including an agreement on a procedure for developing the required work program.

Section 4. The chief state school officer [Superintendent of Public Instruction] shall make interim progress reports to the State Board for Elementary and Secondary [of] Education on each district participating in the Management Assistance Program. A final evaluation shall be submitted to the State Board for Elementary and Secondary [of] Education following the completion of the project which shall include an analysis of the effectiveness of the management assistance program in each district. Each team manager shall submit such an evaluation on the district to which a team [he/she] was assigned.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ron Moubray

(1) Type and number of entities affected: 5 local school districts each year plus carry forward.

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No increase of present.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No increase over present.

(3) Assessment of anticipated effect on state and local revenues: No impact.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Required by statute.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

EDUCATION AND HUMANITIES CABINET Department of Education Office of Instruction (Proposed Amendment)

704 KAR 3:285. Programs for the gifted and talented.

RELATES TO: KRS 157.200, 157.224, 157.230 [158.600 to 158.620]

STATUTORY AUTHORITY: KRS 156.070, 157.220 [156.160]

NECESSITY AND FUNCTION: KRS 157.200 includes within the definition of "exceptional children" a category of "exceptional students" who are identified as exceptionally high achieving, gifted and talented students; KRS 157.224 commits the state to a comprehensive educational program for its exceptional school aged children, as indicated by biennial budget appropriations; and KRS 157.230 requires all school districts to operate programs for resident exceptional children. This regulation relates to the funding and operation of programs for gifted and talented pupils and directs the Department of Education to administer said programs [the Gifted and Talented Education Act of 1978].

Section 1. Pursuant to the authority vested in the Kentucky State Board for Elementary and Secondary [of] Education by KRS 156.070 and 156.220 [156.160], the "[Guidelines:] Kentucky Guidelines for Gifted Education" March, 1988 [Programs] as adopted on May 8, 1984], are presented herewith for filing with the Legislative Research Commission, and incorporated by reference. Such document may be inspected and copied at the Office of Instruction, Department of Education, 18th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 2. The "[Guidelines:] Kentucky Guidelines for Gifted Education [Programs]" shall be followed by local school districts in developing programs to apply for state funds to operate such programs.

Section 3. Each local school district receiving state funds for the operation of a gifted and talented program shall be monitored [evaluated] by the State Department of Education, Office of Instruction, to determine the effectiveness of the program.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before

July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan Leib

- (1) Type and number of entities affected:
 - (a) Direct and indirect costs or savings to those affected: Grants awarded to LEAs for operation of gifted education programs.
 1. First year:
 2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs (note any effects upon competition):
 - (b) Reporting and paperwork requirements: Annual applications for grant awards.
- (2) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: \$6,045,000 for grants, program operation, and Advisory Council.
 2. Continuing costs or savings: \$6,051,800 (1991-92)
 3. Additional factors increasing or decreasing costs: None
 - (b) Reporting and paperwork requirements: Reports to State Board and other agencies as requested.
- (3) Assessment of anticipated effect on state and local revenues: No change - funding amount remains as it was during 1988-90 biennium.
- (4) Assessment of alternative methods; reasons why alternatives were rejected: Program remains as it was during 1988-90 biennium.
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
- (a) Necessity of proposed regulation if in conflict:
- (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments: TIERING: Was tiering applied?

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 3:304. Required program of studies.

RELATES TO: KRS 156.070, 156.160, 160.290, HB 940, §3, (1990 GA)

STATUTORY AUTHORITY: KRS [156.070,] 156.160
 NECESSITY AND FUNCTION: KRS 156.160 requires the State Board for Elementary and Secondary Education to establish [minimum] courses of study for [and the scope of instruction that may be offered in] the different grades and kinds [classes] of common schools, such courses of study to comply with the expected outcomes for students and schools set forth in Section 3 of House Bill 940 (1990 Regular Session) [and to establish the minimum requirements for graduation from the courses offered]. KRS 156.070 gives the state board the management and control of the common schools and all programs operated in such schools, and KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the state board. This regulation prescribes

[implements that duty by prescribing] the document containing the general courses for use [comprising the permissive scope of instruction] in Kentucky's common schools.

Section 1. Pursuant to the authority vested in the State Board for Elementary and Secondary Education by KRS [156.070 and] 156.160, the "Program of Studies for Kentucky Schools, Grades K-12," as amended on June 12 [March 14], 1990, is hereby promulgated and filed with the Legislative Research Commission and incorporated herein by reference. Such document may be inspected and copied at the Office of Instruction, Department of Education, 17th Floor, Capital Plaza Tower, 8 a.m. - 4:30 p.m., Monday - Friday.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Kay Freeland

- (1) Type and number of entities affected:
 - (a) Direct and indirect costs or savings to those affected:
 1. First year: None
 2. Continuing costs or savings: None
 3. Additional factors increasing or decreasing costs (note any effects upon competition):
 - (b) Reporting and paperwork requirements: No difference.
- (2) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: None
 2. Continuing costs or savings: None
 3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements: No difference.
 - (3) Assessment of anticipated effect on state and local revenues: No effect.
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: Statute repealed basic skill requirement.
 - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Overlaps with 704 KAR 3:305; however, needed changes being made in that regulation also.
 - (a) Necessity of proposed regulation if in conflict:
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
 - (6) Any additional information or comments: TIERING: Was tiering applied? No. Applies to all school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 3:305. Minimum unit requirements for high school graduation.

RELATES TO: KRS 156.160[, 158.665]

STATUTORY AUTHORITY: KRS 156.070, 156.160[, 158.665]

NECESSITY AND FUNCTION: KRS 156.160 requires that[, upon the recommendation of the Superintendent of Public Instruction,] the State Board for Elementary and Secondary [of] Education shall adopt rules and regulations relating to the [minimum] courses of study for the different grades and the minimum requirements for high school graduation [from the courses offered in all common schools; and KRS 158.665 requires that all secondary students devote at least sixty (60) percent of their time to basic skills development in the curriculum areas of English, language arts, science, mathematics, and social studies]. This regulation relates to the establishment of minimum requirements necessary for entitlement to a high school diploma.

Section 1. All students in the common schools and all students in the private or parochial schools which are accredited by the State Board for Elementary and Secondary [of] Education shall meet the following minimum credit requirements for high school graduation:

(1)(a) Language arts - 4 [3];

(b) Social studies - 2 (including one (1) credit in U.S. History [and, one (1) credit in citizenship for students graduating in 1984-87, if a full-year citizenship course has not been successfully completed at the sixth, seventh, or eighth grade level. Successful completion of the citizenship requirement at the sixth, seventh, or eighth grade level shall not be substituted for either of the two (2) social studies credits required for high school graduation. Any required citizenship credit at the high school level may be waived by the local board of education for students transferring into a school operated by that board, if a full-year citizenship course is no longer offered at the high school level by the pertinent school, but such a waiver shall not reduce the minimum number of total credit requirements for graduation. The Superintendent of Public Instruction also may grant a waiver for any high school citizenship requirement, upon written request of a local school district superintendent, for up to two (2) graduating classes, as a result of moving the required citizenship course from the high school level to the sixth, seventh, or eighth grade, but such a waiver shall not reduce the minimum number of credits for graduation]).

(c) Mathematics - 3 [2];

(d) Science - 2;

(e) Health - 1/2;

(f) Physical education - 1/2.

(2)(a) Required - 12 [10];

(b) Elective - 8;

(c) Total - 20 [18].

[Section 2. (1) Effective for students beginning the ninth grade after the 1982-83 school term, the following minimum credits shall

be required for graduation in addition to the requirements set forth in Section 1 of this regulation:]

[(a) One (1) additional credit in language arts, making a total of four (4);]

[(b) One (1) additional credit in mathematics, making a total of three (3); and]

[(c) All secondary school students in grades nine (9) through twelve (12) shall continue to develop competency in reading and writing, including grammar and spelling, with at least sixty (60) percent of their time being devoted to basic skills development in the curriculum areas of English, language arts, science, mathematics and social studies. One additional credit from language arts, mathematics, science, social studies, or the approved vocational courses recognized by the "Program of Studies for Kentucky Schools, Grades K-12" as incorporating such basic skill curriculum areas shall be earned as one of the requisite elective courses.]

[(2) Students subject to the requirements of this section shall thus complete the following minimum credits:]

[(a) Required - 12;]

[(b) Elective - 8 (one of which shall be from the curriculum areas of language arts, mathematics, science, social studies, or approved vocational courses);]

[(c) Total - 20.]

Section 2. All [(3) Relative to required credits for those subject to this section,] students[, except those repeating such courses and except as hereinafter set forth,] shall have completed at least two (2) credits in English[, two (2) credits in science and two (2) credits in mathematics] at the ninth and tenth grade levels, except those repeating such courses. Students transferring from nonaccredited schools, as defined in 704 KAR 3:307, and schools properly accredited under the laws of other states may be awarded ninth and tenth grade required credits under the procedures set forth in 704 KAR 3:307, and, if such is not possible, may be allowed to complete such required credits beyond the tenth grade level.

Section 3. (1) Each student who satisfactorily completes the requirements of [Sections 1 or 2 of] this regulation[, as applicable,] and such credits and additional requirements as may be imposed by a local board of education shall be awarded a graduation diploma.

(2) [(1)] Local boards of education may grant different diplomas to those students who complete credits above the minimum number of credits as established by the State Board for Elementary and Secondary [of] Education.

(3) [(2)] The local school district board of education shall award the diploma.

Section 4. Nothing in this regulation shall be interpreted as prohibiting any local governing board, superintendent, principal or teacher from awarding special recognition to students.

Section 5. When the severity of an exceptional student's handicap(s) precludes a course of study leading to receipt of a diploma, an alternative program shall be offered. This program is based upon student needs, as [is] specified in the individual educational plan, and is to be reviewed at least annually. The

student who completes such a course of study is entitled to recognition for achievement. This may be accomplished by the local school district board of education awarding a certificate.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Kay Freeland

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No difference.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No difference.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Changes needed to bring regulation into compliance with the reform act.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Overlaps with 704 KAR 3:304; however, needed changes were also made in that regulation.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Applies to all school districts.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 3:325. Effective Instructional Leadership Act.

RELATES TO: KRS 156.101

STATUTORY AUTHORITY: KRS 156.070, 156.101

NECESSITY AND FUNCTION: KRS 156.101 requires the State Board for Elementary and Secondary Education to establish specific criteria for implementing a statewide instructional leader improvement program for employees of the public schools holding valid certificates and performing responsibilities as principals, assistant principals, supervisors of instruction, guidance counselors or directors of special education. This regulation establishes and sets criteria for such a program.

Section 1. Definitions. (1) Instructional leader - a certified employee who is performing the responsibilities as principal, supervisor of instruction, guidance counselor, or director of special education.

(2) Training provider - an established educational organization or private educational consultant who sponsors training programs.

(3) Presenter - person who conducts the training program. The presenter can also be a training provider.

(4) Training program - a workshop or series of workshops focused on a specific goal with established objectives, activities, and procedures for evaluation.

Section 2. By July 13, 1992 [1986], and every two (2) years thereafter, each instructional leader employed by the public schools of the Commonwealth shall participate in an intensive and continuing training program of no less than forty-two (42) participant hours of instruction approved by the State Board for Elementary and Secondary [Department of] Education. Completion of the required participant hours shall be reported, and penalties for nonparticipation in the program invoked, in accordance with KRS 156.101(4) [to the local school district and to the State Department of Education. Failure to participate shall result in a one (1) year probation. Those certified as instructional leaders on or after July 14, 1984, who fail to complete the training during the probationary period, shall have their administrative certificates revoked].

Section 3. (1) Participation in the program is required for all those certified and employed at least one-half (1/2) time as instructional leaders. Under the provisions of [Accreditation Standards (Standard V, Compliance Indicator 5) and amendments to] 704 KAR 3:035 (annual professional development [in-service education] plan), local school districts are required to develop a plan for instructional leadership training as part of their Master Professional Development [In-service Education] Plan. [Districts which do not ensure that their instructional leaders obtain the required participant hours shall be cited for an accreditation deficiency.]

(2) The approval of specific training for instructional leaders, as well as the selection of approved providers of such training shall be determined by the superintendent or designee of the local district.

(3) Every two (2) years, each local school district shall [must] send a verification form to the Kentucky Department of Education, recording the names of all instructional leaders, their position titles, their social security numbers, the dates they entered the two

(2) year cycle, and the number of hours of training obtained during the two (2) year cycle.

(4) All participant verification forms and certificates shall [must] be kept on file for six (6) years by each local district for each participant. In the event that a participant changes districts, the [his/her] original file shall [should] be sent to the instructional leader [him/her] and a duplicate copy to the new district.

Section 4. (1) Instructional leaders shall participate in a training program designed to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth. The State Board for Elementary and Secondary [of] Education may approve agencies or institutions, defined hereinafter as providers, to design, implement, and evaluate such training. Training programs approved by the State Board for Elementary and Secondary Education shall be:

(a) Intensive and designed specifically for instructional leaders. Participation shall [should] occur during the contract period including extended employment, if applicable. Training shall [should] be scheduled so as to minimize disruption of the instructional program of the district.

(b) Competency-based, specifying instructional leadership competencies to be mastered by participants. Competencies may have general applicability for instructional leaders or may be role-specific. Based on identified needs, the department may allow credit for required specific training.

(c) Comprehensive in nature and shall meet identified needs. Needs shall be identified as described in the program content, Section 4 of this regulation. To meet the criterion of comprehensiveness, a program shall [must] contain the pertinent interrelated aspects of a broad competency area. This requirement shall not preclude approved subcontracting by providers for program components.

(d) Characterized by follow-up activities to document the application of acquired competencies. To the optimum extent possible, these activities shall [should] occur on the employment site.

(e) Evaluated in terms of program content, instructional processes, and impact upon participants. Specifically, participant application of competencies shall be verified by random sampling utilizing local school district provider, and participant data.

(2)(a) During the initial two (2) year cycle of instructional leadership training in a job category, the instructional leader may count six (6) hours of credit toward the required forty-two (42) hours for attendance at conferences of established professional education organizations. After an instructional leader has completed the initial two (2) year cycle in a job category, he or she may count up to twelve (12) hours of credit per training cycle for attendance at education conferences. An instructional leader may acquire a maximum of six (6) hours of credit for each conference attended. Such conferences shall be congruent with the instructional leader's annual growth plan and approved by the local superintendent or designee prior to attendance. Such conferences shall be submitted to the Kentucky Department of Education and the Kentucky State Board for

Elementary and Secondary Education. When approved by the Kentucky State Board for Elementary and Secondary Education, instructional leaders shall be awarded certificates by their local district upon verification of attendance.

(b) Professional education organizations who sponsor conferences may apply for full hour-for-hour instructional leadership training credit by submitting a proposal to be reviewed by the Kentucky Department of Education and approved by the Kentucky State Board for Elementary and Secondary Education.

(3) The two (2) year cycle to which a training program shall [will] be applied is determined by the date on which the last contact hour of a training program occurs. The two (2) year cycle is divided into halves for the purpose of prorating the forty-two (42) hour requirement of one who may become a participant after the beginning date of a two (2) year cycle. The halves and hour requirements are as follows:

(a) July 14 - July 13, first year of cycle - forty-two (42) hours by the end of the two (2) year cycle.

(b) July 14 - July 13, second year of cycle - twenty-one (21) hours by the end of the year.

(4) At the end of the two (2) year cycle a participant's verification of attendance at approved Effective Instructional Leadership Training sessions and programs and copies of program certificates shall [must] be recorded with the administrator's school [his/her] district.

(5) Excess hours (not to exceed twenty-one (21)) earned by a participant during the forty-three (43) day period of June 1 through July 13 at the end of a two (2) year cycle may be carried forward to the next two (2) year cycle and credited toward required hours for that cycle.

Section 5. The training program content shall consist of specific competencies consistent with the following definition of instructional leadership: Instructional leadership is the process of encouraging and modeling appropriate academic expectations of students and teachers in a positive school climate with affective, physical, and social needs to be considered as they relate to the cognitive development of students. The leadership competencies for the improvement of instruction for children and youth relate to an understanding of the teaching and [/]learning process as well as to the supportive and evaluative functions of the instructional leader.

Section 6. Identification of needs shall [will] provide the basis for the definition of specific instructional leadership competencies to be addressed within the parameters of the above definition.

Section 7. The provider of the training program shall:

(1) Develop programs which meet the criteria identified above;

(2) Select program faculty who have adequate, pertinent training and [/]education, appropriate experience, and the ability to instruct effectively;

(3) Meet identified needs consistent with the definition of instructional leadership cited in Section 4 of this regulation;

(4) Identify in all informational literature the two (2) year cycle for which approval is granted and the specific category(ies) of instructional leader for which training is approved;

(5) Conduct training as set forth in its proposal and as approved by the State Board for Elementary and Secondary [Department of] Education;

(6) Award participants Kentucky Department of Education certificates of attendance and document, through an attendance roster for each training session, participation of instructional leaders to the local district superintendent and the Department of Education; and

(7) Evaluate the training in terms of its content, instructional processes and impact upon the professional behavior of participants.

Section 8. The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer [Superintendent of Public Instruction], shall approve training programs and providers, and the Department of Education shall maintain and distribute a list of approved programs and providers.

Section 9. (1) Approval shall be granted for a period of up to two (2) consecutive years. Continuation of approval for another two (2) year period shall be granted upon receipt of a statement of request from the provider. The chief state school officer [Superintendent of Public Instruction] may revoke such approval if the provider does not implement the approved training program.

(2) In order to protect bona fide institutions and organizations and to protect citizens of the Commonwealth from fraudulent practices, unfair competition and substandard educational training programs, the Kentucky State Board for Elementary and Secondary Education shall require that a provider seeking program approval meet the following criteria:

(a) An established organizational structure including a legally chartered or organized status or an interagency agreement;

(b) Legally appropriate officers [and/or] a governing body, membership representative of the education profession, and a verifiable domicile; and

(c) A record of effective sponsorship of in-service activities.

(d) Local districts and educational cooperatives may qualify as providers.

(3) Determination of approval as a provider shall [will] be based upon:

(a) Submission of a provider's training program proposal within sixty (60) days prior to the State Board for Elementary and Secondary [of] Education meeting at which approval is requested;

(b) Specific program criteria; and

(c) Program content addressing specified competencies of instructional leadership and specific categories of instructional leaders identified in training proposals.

[(d) Local districts and educational cooperatives may qualify as providers.]

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m.

EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Bob Slusher & Beth Hargett

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No difference.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No difference.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Statute applies to all local districts.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 3:345. Evaluation guidelines.

RELATES TO: KRS 156.101

STATUTORY AUTHORITY: KRS 156.070, 156.101

NECESSITY AND FUNCTION: KRS 156.101 requires the State Board for Elementary and Secondary Education to establish a statewide program for evaluation of certified school employees, including superintendents, and to develop guidelines for implementing the program and establishing the framework within which each local school district is to develop its own specific evaluation policies. This regulation establishes the requirements for the evaluation programs and policies of local school districts.

Section 1. Definitions. (1) Teacher - any

certified staff person who directly instructs students.

(2) Administrator - any certified staff person other than the classroom teacher or librarian.

(3) Other support staff - any certified staff other than teacher or administrator.

(4) Evaluation - the process of assessing or determining the effectiveness of the performance of the certified employee in a given teaching and learning or leadership and management situation, based on predetermined criteria, through observation and other means of gathering information. Evaluation shall also include the establishment and monitoring of a growth plan.

(5) Formative evaluation - a continuous cycle of collecting evaluation information and interacting or providing feedback and suggestions regarding the certified employee's teaching or administrative performance.

(6) Summative evaluation - the summary of, and conclusions from, all evaluation data, including but not limited to the formative evaluation data. The summative evaluation occurs at the end of an evaluation cycle. Summative evaluation includes a conference involving the evaluator and the evaluated certified employee, and a written evaluation report.

(7) Observation - a process of gathering information, based on predetermined criteria in the district plan.

(8) Conference - a meeting involving the evaluator and the certified employee evaluated for the purpose of providing feedback from the evaluator, analyzing the results of observation(s) and other information to determine strengths and weaknesses, to develop a plan for growth and follow-up.

(9) Performance criteria - performance areas, skills, or outcomes on which the certified employee shall be evaluated based on the district plan.

(10) Indicators - measurable behaviors outcomes which demonstrate performance criteria.

(11) Standards of performance - acceptable qualitative or quantitative level of performance expected of effective teachers or administrators.

(12) Position - term used to signify a professional role in the school district (e.g., teacher, secondary principal, supervisor of instruction).

(13) Job category - term used to signify a group or class of positions with closely related functions (e.g., principal, coordinator, director).

(14) Growth plan - a plan whereby the evaluatee is given assistance for becoming more proficient as a teacher or administrator. The plan includes an objective, a plan for achieving the objective and evaluating success.

Section 2. Each local school district shall have an evaluation plan and procedures approved by the State Board for Elementary and Secondary Education. Approval of the plan and procedures shall be for the purpose of certification as to the compliance of each specific school district's evaluation plan with the broad guidelines set forth herein.

Section 3. The local school district shall have a written policy for the evaluation of all certified employees consistent with KRS 156.101.

Section 4. (1) An ad hoc committee consisting of equal numbers of teachers and administrators shall develop evaluation procedures and forms.

(2) The procedures shall provide for both formative evaluation and summative evaluation and shall include, but not be limited to, the following elements:

(a) The immediate supervisor of the certified school employee shall be designated the primary evaluator. Additional administrative personnel may be used to observe and provide information to the primary evaluator.

(b) All monitoring or observations of performance of a certified employee shall be conducted openly and with the full knowledge of the teacher or administrator. The local district may determine the length and frequency and nature of observations conducted by an evaluator.

(c) The evaluation system shall include a growth plan.

(d) Evaluation shall include formative conferences between the evaluator and the person evaluated within one (1) work week following each observation. In addition, the summative conference shall be held at the end of the evaluation cycle and include all evaluation data.

(e) Evaluation with multiple observations shall occur annually for each nontenured certified employee. The formative data collected during the beginning teacher internship period may be utilized in summative evaluation of the intern.

(f) Multiple observations shall be conducted with certified employees whose initial observation results are unsatisfactory.

(g) Summative evaluation shall occur, but not be limited to, a minimum of once every three (3) year period for each tenured teacher.

(h) Summative evaluation shall occur annually for administrators, except for superintendents who shall be evaluated not less than every two (2) years.

(i) All evaluations of certified employees below the level of the district superintendent shall be in writing on an evaluation form and become a part of the official personnel record.

(j) All observations shall include documentation of information to be used in determining the performance of the evaluatee.

(k) The evaluation system shall provide an opportunity for a written response by the evaluatee.

(l) A copy of the evaluation shall be provided to the evaluatee.

Section 5. (1) The evaluation procedures and forms shall be designed to support individual personnel decisions.

(2) The evaluation forms shall include, but not limited to, a list of performance criteria characteristic of effective teaching or administrative practices. The performance criteria shall include, but not limited to the following:

(a) Performs professional responsibilities and duties as outlined in the job description including regular attendance and punctuality;

(b) Demonstrates effective classroom or staff management skills;

(c) Uses instructional strategies and processes effectively;

(d) Demonstrates effective interpersonal and communication skills with peers, subordinates, students and parents;

(e) Demonstrates knowledge of subject matter or administrative techniques;

(f) Plans and evaluates instructional or administrative activities. Under each criterion,

specific descriptors or indicators that can be measured and recorded shall be listed. In addition, standards of performance shall be established for each criterion.

(3) All certified school personnel shall be made aware of the criteria on which they are to be evaluated at the beginning of the evaluation period.

(4) Evaluation forms or instruments shall be specific for each position or job category. Other forms for observation and pre- and postconferences may be used at the discretion of the local district.

Section 6. (1) All evaluators, with the exception of district board of education members, shall be trained, tested, and certified.

(2) Training shall:

(a) Include skill development in the use of the local evaluation process. Each local district shall conduct this training;

(b) Include skill development in the identification of effective teaching and management practices, effective observation and conferencing techniques, establishing and assisting with certified employee growth plans, and summative evaluation techniques. This training shall be conducted by providers who have been approved by the State Board for Elementary and Secondary Education as trainers for the Instructional Leadership Improvement Program;

(c) Be provided by the State Board for Elementary and Secondary Education for all new administrators who are designated as evaluators. Other administrators who have not received training in the skill areas listed in paragraph (b) of this subsection may participate also; and

(d) Be approved as a part of the evaluation plan and procedures submitted to the State Board for Elementary and Secondary Education.

(3) Testing shall:

(a) Include a cognitive test of research-based and professionally accepted teaching and management practices and effective evaluation techniques listed in subsection (2)(b) of this section; and

(b) Be conducted by the State Board for Elementary and Secondary Education or agencies approved by the State Department of Education.

(4) Initial certification as an evaluator shall be issued by the State Board for Elementary and Secondary Education upon completion of the required evaluation training program and successful completion of testing. [All principals employed after January 1, 1987, shall be required to complete the initial certification process.]

(5) Continued certification as an evaluator shall be contingent upon the completion of a minimum twelve (12) hours of evaluation training every two (2) years beginning July 1, 1988. This training shall be in any one, or a combination, of the following skill areas: use of the local evaluation process, identification of effective teaching and management practices; effective observation and conferencing techniques; establishing and assisting with certified employee growth plans; or summative evaluation techniques.

(a) Hours of training received in the use of the local evaluation process shall be certified by the local board of education with documentation available for review by the State Department of Education.

(b) Hours of training received in the other skill areas may compose part of the evaluator's required hours for the Instructional Leader Improvement Program.

(6) Each local district shall designate a person responsible for evaluation training as the contact person for the evaluation plan submitted by the local district.

Section 7. The local board of education shall annually review the evaluation plan to ensure compliance with KRS 156.101 and these regulations. If substantive changes are made to the evaluation plan, the local board of education shall utilize the ad hoc committee, as provided for in Section 4 of this regulation, in formulating the revisions. Examples of substantive change are, but are not limited to, change in cycle, observation frequency, forms, and appeals procedures. All revisions to the plan shall be reviewed and approved by the local board of education and submitted to the State Board for Elementary and Secondary Education for approval.

Section 8. (1) Any certified employee who feels that the local district is not implementing the evaluation plan according to the way it was approved by the State Board for Elementary and Secondary Education shall have the opportunity to appeal to the State Board for Elementary and Secondary Education.

(2) The appeal procedures shall be as follows:

(a) The State Board for Elementary and Secondary Education shall appoint a committee of three (3) board members to serve on the State Evaluation Appeals Panel. Said panel shall have no jurisdiction relative to complaints involving the professional judgmental conclusions of evaluations and its jurisdiction shall be limited to procedural matters already addressed by the local appeals panel required by KRS 156.101(10) [(11) and Section 3 of this regulation].

(b) The certified employee shall submit a written request to the chief state school officer [Superintendent of Public Instruction] for a hearing before the State Evaluation Appeals Panel. A specific description of the complaint and grounds for appeal shall be submitted with this request.

(c) The State Evaluation Appeals Panel, or the Department of Education at its direction shall review the complaint and investigate to determine if a hearing should be granted.

(d) If a hearing is granted, all involved parties shall have an opportunity to speak before the appeals panel.

(e) A decision of the appeals panel shall be rendered within fifteen (15) working days after a hearing.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and

Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Brenda Glover

- (1) Type and number of entities affected:
 - (a) Direct and indirect costs or savings to those affected: None
 1. First year:
 2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs (note any effects upon competition):
 - (b) Reporting and paperwork requirements:
 - (2) Effects on the promulgating administrative body: None
 - (a) Direct and indirect costs or savings:
 1. First year:
 2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements:
 - (3) Assessment of anticipated effect on state and local revenues: None
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: None
 - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
 - (a) Necessity of proposed regulation if in conflict:
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
 - (6) Any additional information or comments: One wording change is necessary to conform to KERA terminology Commissioner of Education.
- TIERING: Was tiering applied? No. Not necessary for one title change.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 5:050. Public school kindergarten programs and [successful completion of kindergarten;] accreditation of nonpublic programs.

RELATES TO: KRS 156.160, 157.320 [157.312, 157.315, 157.317], 157.360, 158.030[, HB 474 (1984 General Assembly)]

STATUTORY AUTHORITY: KRS 156.070, 156.160 [157.315, 157.317], 157.320, 161.030 [158.030]

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board for Elementary and Secondary Education to adopt program standards and courses of study for school districts and allows nonpublic schools to voluntarily comply with curriculum, certification, and textbook standards for common schools; KRS 157.320 defines kindergarten as the entry level of the ungraded primary program and requires that such be provided at least one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil [KRS 157.312 authorizes public school kindergartens operated by local school districts; KRS 157.315 and KRS 157.317 require the State Board of Education and the Department of Education to adopt regulations

defining and prescribing the criteria for kindergartens in the common schools and a statewide kindergarten program to be operated in such]; KRS 157.360 sets forth maximum class sizes for the primary grades and requirements with respect to kindergarten aides [requires the Superintendent of Public Instruction to allot Foundation Program kindergarten units to local districts]; KRS 158.030 sets forth the primary program [kindergarten] entrance age requirements; and KRS 161.030 currently gives the State Board for Elementary and Secondary Education authority over teacher certification [and requires successful completion of kindergarten as a prerequisite for first grade enrollment in the public schools, beginning in 1986-87; HB 474 (the Budget Bill) passed by the 1984 General Assembly requires kindergarten units to be allotted in fiscal years 1985 and 1986 on the basis of one (1) for every two (2) classes with twenty-five (25) pupils in ADA; and KRS 156.160 allows nonpublic schools to voluntarily comply with common school accreditation standards of the state board and to be certified as so complying]. This regulation implements such statutory provisions with respect to kindergarten programs.

Section 1. Personnel qualified to serve in a [an approved unit for] kindergarten program shall hold Kentucky teacher certification as follows:

- (1) A Kentucky certificate endorsement for kindergarten teaching;
- (2) A Kentucky certificate valid for kindergarten teaching;
- (3) A Kentucky certificate valid for elementary classroom teaching initially issued prior to September 1, 1971; or
- (4) A Kentucky certificate valid for Early Elementary Grades K-4.

Section 2. (1) The maximum number of pupils enrolled in a kindergarten class, absent an exemption granted under KRS 157.360(4), shall be twenty-four (24). [State funding for a kindergarten unit for fiscal year 1985-86 shall be made on twenty-five (25) average daily attendance for the end of the previous school year, and in accordance with KRS 157.360 and the Appropriations Act.]

(2) Except for those schools which have implemented school-based decision making, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled. [The average daily attendance for programs operating under Section 3(2) of this regulation shall be calculated by dividing the total aggregate days attendance for the year by the actual number of days the school is in session. The average daily attendance for programs operating under Section 3(1) of this regulation shall have the total aggregate days attendance divided by two (2) before the average daily attendance for the year is calculated.]

Section 3. (1) Kindergarten is the entry level of the primary program and shall be provided at a minimum for one-half (1/2) day, five (5) days a week for each kindergarten pupil. [Scheduling for a kindergarten unit shall meet one (1) of the following plans:]

- [(1) Conduct half-day session(s) for the

school year. The school district may use five (5) three (3) hour sessions per week.].

(2) School districts may use five (5) full-day sessions per week. [Conduct alternate full day session(s) all year.]

[(a) The school district may use alternate sessions of three (3) days a week with one (1) group and two (2) days a week with a second group, with the two (2) groups reversing a day every other week. This may include any of the following schedules:]

[1. Group 1 - Monday, Tuesday, every other Wednesday, Group 2 - Thursday, Friday, every other Wednesday; (with Wednesday being the alternating day).]

[2. Group 1 - Monday, Wednesday, every other Friday, Group 2 - Tuesday, Thursday, every other Friday (with Friday being the alternating day).]

[(b) Any other plan approved by the State Department of Education.]

Section 4. (1) Any child who is five (5) years of age or who may become five (5) years of age by October 1 of the school year in which the child seeks to enroll, shall be permitted to enroll in a public school kindergarten. Any child eligible for enrollment and a Kentucky resident on the opening date of school, who elects to attend kindergarten, shall [must] be enrolled for the current year by the end of the second school calendar month.

(2) Upon enrollment a child shall verify age and identity with a certified birth certificate and social security number, unless previously done for entry into an early childhood program.

(3) A child shall present a valid, up-to-date immunization certificate including tuberculosis testing upon enrollment in kindergarten.

Section 5. The public school program shall include appropriate developmental experiences in social living, physical development, emotional growth and stability, creative expression and in academic areas including language, math, spelling, writing, library, science, social studies, art, music, drama, physical education and health. The program shall provide opportunities and experiences in accordance with each child's level of comprehension and maturation. Pursuant to the authority vested in the State Board for Elementary and Secondary [of] Education the "Kentucky Kindergartens: Guidelines, Recommendations, and Regulations" as adopted on March 5, 1985, is hereby promulgated and filed with the Legislative Research Commission and incorporated herein by reference. Copies of such document may [are to] be inspected and obtained from the Office of Instruction, 18th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

[Section 6. (1) The public school program must provide opportunities for each child to attain the competencies to master the essential skills necessary to function in each basic skills area defined by KRS 158.650. The criterion referenced part of the Kentucky Essential Skills Test (KEST) will be given in the spring of the kindergarten year.]

[(2) Demonstrated competence in the essential skills for kindergarten shall be considered as one (1) criterion by the public school superintendent in recommending promotion to the

first grade, but shall not, in and of itself, be a prerequisite for such promotion.]

[(3) Nonpublic kindergarten children desiring to enroll in the first grade in the public schools in 1986-87, and thereafter, may be administered the criterion referenced part of the KEST by the applicable public school district, in the spring of the kindergarten year wherever practicable. Demonstrated competence in the essential skills for kindergarten shall be considered, consistent with consideration of such under subsection (2) of this section, relative to any appropriate reassignment to kindergarten pursuant to KRS 158.140.]

[Section 7. Successful completion of kindergarten, for purposes of first grade enrollment in the public schools, can be accomplished by any one of the following:]

[(1) Any child completing a Kentucky public kindergarten program who has been recommended by the school district superintendent for promotion to the first grade, such recommendation to be based upon the teacher's written assessment of the child's competence in the Kindergarten Kentucky Essential Skills as set forth in Section 6(2) of this regulation and the child's social, emotional and physical development;]

[(2) Any child completing a nonpublic kindergarten program who meets age requirements who can produce documentation of prior enrollment and regular attendance, and recommendation for promotion to the first grade, subject to any appropriate reassignment to kindergarten pursuant to KRS 158.140, with any such reassignment to be based upon demonstrated competence in kindergarten essential skills as set forth in Section 6(3) of this regulation and upon the child's social, emotional, and physical development;]

[(3) Any child completing a kindergarten program from another state who can produce verification of enrollment and regular attendance and who has been recommended by that district superintendent for promotion to the first grade, and who was eligible for enrollment in a public school kindergarten program under the laws of such state, subject to any appropriate reassignment to kindergarten pursuant to KRS 158.140; or]

[(4) Any identified exceptional child completing a public or nonpublic kindergarten program who can produce documentation of prior enrollment and regular attendance and who meets the age requirements and who can produce recommendation for promotion to the first grade based on written review of the child's individual education plan by the School Based Admissions and Release Committee (SBARC) or its equivalent in a nonpublic school. Written recommendation must adhere to the provisions of least restrictive environment mandated by the Education for All Handicapped Act.]

[Section 8. Waiver of the above definition of successful completion of kindergarten shall be given to children transferring from states where kindergarten attendance is not mandatory who meet the first grade entrance age requirement and take the criterion referenced part of the Kentucky Essential Skills Test to determine readiness for first grade.]

Section 6. [9.] The facilities of a public school kindergarten program shall be in

compliance with the regulations of the Department of Education's Division of Buildings and Grounds.

[Section 10. The equipment and instructional supplies of a public school kindergarten program shall be in compliance with "The Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools."]

Section 7. [11.] A nonpublic kindergarten may voluntarily request that it be recognized by the State Board for Elementary and Secondary [of] Education as having complied with curriculum, certification, and textbook [accreditation] standards required in the public schools. The school shall [will] undergo a self-study and an on-site visit by a monitoring [an accreditation] committee. The entire cost for this visit shall [will] be borne by the school, subject to any appropriate, discretionary use of federal funds for such accreditation.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Crum

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: Additional cost for class size cap but funded by the state.

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): Class size cap.

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: No change.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Applies to all local school districts.

CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

901 KAR 5:050. Fees for searches, certified copies of certificates[; fee].

RELATES TO: KRS Chapter 213

STATUTORY AUTHORITY: KRS Chapter 213, H.B. 64, H.B. 799 as enacted by the 1990 General Assembly [194.050, 211.090]

NECESSITY AND FUNCTION: KRS Chapter 213[.190] directs the Cabinet for Human Resources to set a reasonable fee by regulation for searches and/or for copies of the record of any birth or death [not to exceed four (4) dollars for each certified copy of records of death or other records registered with the cabinet, except records of birth, issued or search of the files if no certificate is found].

Section 1. Fees for Searches and, Certified Copies of Certificates. The following fees shall be charged for searches for and copies of records registered with the State Registrar of Vital Statistics, Cabinet for Human Resources:

| | RECORD SEARCH AND CERTIFIED COPY | RECORD SEARCH AND NO COPY |
|----------|--|---------------------------------|
| Death | \$5.00 | \$5.00 |
| Marriage | \$5.00 | \$5.00 |
| Divorce | \$5.00 | \$5.00 |
| Birth | \$6.00 | \$6.00 |

[An applicant for a certified copy of the record of any death, marriage, divorce or other record except birth registered with the Director of Vital Statistics, Cabinet for Human Resources, shall pay a fee of four (4) dollars for a copy thereof or search of the files if no copy is found.]

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 5, 1990

FILED WITH LRC: June 7, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the DES Conference Room, Second Floor, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Robert N. Hurst III

(1) Type and number of entities affected: Will affect an estimated 300,000 individuals requesting certified copies of birth, death,

marriage and divorce certificates by a \$1.00 increase in fees.

(a) Direct and indirect costs or savings to those affected: Increases the fee of certified copies of birth, death, marriage and divorce by \$1.00.

1. First year: \$330,000 (est.) direct costs increase for certified copies of birth, death, marriage and divorce certificates.

2. Continuing costs or savings: Increase in direct costs to individuals of \$1.00 for certified copies of birth, death, marriage and divorce records.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No additional factors. Vital Statistics is sole provider of certified copies of birth, death, marriage and divorce records.

(b) Reporting and paperwork requirements: No additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: Application forms for the request of these records will be revised to denote increase in fees.

(a) Direct and indirect costs or savings: No additional direct costs for forms. Routinely printed upon request.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: Slight increase in costs due to notification to public of increased fees.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Increase in state revenues of \$330,000 (est.), FY 1991, with revenues projected to increase 5% annually thereafter.

(4) Assessment of alternative methods; reasons why alternatives were rejected: H.B. 799 specifies \$1.00 increase in fees.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: H.B. 799 and H.B. 64 conflicting in specification of fees for birth certificates.

(a) Necessity of proposed regulation if in conflict: Provides for increasing fees of birth, death, marriage and divorce as specified in H.B. 799.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Requires revision of Administrative Regulation specified by H.B. 799.

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Applies to all individuals equally.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

901 KAR 5:070. Certificate of birth amended.

RELATES TO: KRS Chapter 213

STATUTORY AUTHORITY: KRS Chapter 213, HB 64 as enacted by the 1990 General Assembly [194.050, 211.090]

NECESSITY AND FUNCTION: KRS Chapter 213 relating to Vital Statistics authorizes the Cabinet for Human Resources to regulate the registration of births in Kentucky. The purpose of this regulation is to provide for uniform

procedures for changing birth certificates of children born out of wedlock where a paternity affidavit is executed or where paternity is established by law or when a request is received to amend or correct an item on the birth certificate.

Section 1. Paternity Affidavits. Paternity affidavits executed in accordance with KRS Chapter 213[.050(1)] shall be on a special declaration of paternity form provided by the cabinet and shall be signed by both natural parents.

Section 2. Amendment or Issuance of New Certificate. When paternity has been established for a child born out of wedlock in Kentucky, the State Registrar [Director] of Vital Statistics shall amend the original certificate of birth or prepare a new certificate of birth.

Section 3. Amendment of Obvious Errors on Birth Certificate. Amendment of obvious errors, transposition of letters of common knowledge or omissions on the certificate, may be made by the State Registrar within one (1) year after the date of birth either upon request of registrant, observation, query, request of parents if applicant is under eighteen (18) years of age, legal guardian or persons responsible for filing the birth certificate.

Section 4. Amendment of Name. Unless otherwise provided in these regulations or in KRS Chapter 213, a change of name ordered by a court of competent jurisdiction is required to change the name as shown on the birth certificate, unless the registrant presents documentary evidence that the name was incorrectly recorded at the time of registration of the birth.

Section 5. Amendment of Date of Birth. The date of birth shall only be changed with a court order from a court of competent jurisdiction, unless proof is shown that the error occurred upon the original filing of the birth.

Section 6. All Other Amendments. All other amendments to the birth certificate shall be supported by an affidavit and/or documentary evidence which is five (5) years old and supports the alleged facts.

Section 7. Amendment of the Same Item More Than Once. Once an amendment of an item is recorded on the birth certificate, that item shall not be amended again except upon receipt of a court order from a court of competent jurisdiction.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 7, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the DES Conference Room, Second Floor, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Robert N. Hurst III

(1) Type and number of entities affected: Will affect approximately 1,000 individuals requesting name, date of birth and other changes to birth certificate. Current regulation covers only children born out of wedlock and paternity actions.

(a) Direct and indirect costs or savings to those affected: No effect regarding savings or cost to those affected. Current office policy requires evidence of affidavit or court order for individuals requesting name, date of birth and other changes to certificate.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): No additional factor increasing or decreasing costs. Vital Statistics is the sole provider of the vital statistics system in the state.

(b) Reporting and paperwork requirements: No additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: Provides administrative body the legality to amend birth certificates requesting name and date of birth changes to birth certificate based on evidence.

(a) Direct and indirect costs or savings: No additional costs or savings.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: No effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives considered since office policy has been in effect for many years.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No additional information.

(6) Any additional information or comments: No additional information.

TIERING: Was tiering applied? No. Proposed change applies equally to all entities.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 10:010. Public restrooms.

RELATES TO: KRS 211.180

STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.990(2)

NECESSITY AND FUNCTION: KRS 211.180 authorizes the Cabinet for Human Resources [Cabinet] to regulate the sanitation of public and semipublic buildings, state and county fairs and other similar public gatherings, public and semipublic recreational areas, and public restrooms. This regulation provides standards for public

restrooms and other similar toilet or sanitary facilities in order to protect the public health and [of] the environment [public].

Section 1. Citation of Regulation. This regulation may be cited as the "Kentucky Public Restroom Regulation".

Section 2. Definitions. As used in [The following definitions shall apply in the interpretation and enforcement of] this regulation the following terms shall have the meanings set forth below:

(1) "Approved" means that which has been considered acceptable to the cabinet.

(2) [(1)] "Cabinet" means the Cabinet for Human Resources [Cabinet] and includes its authorized agents [the local health department having jurisdiction and their duly designated representatives].

(3) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company or governmental unit.

(4) "Public" means available and accessible to the general populace at large with or without charge for access.

(5) [(2)] "Public rest room" means any structure or portion of a structure designed and constructed to [facility that] provide[s] toilet and hand-washing or other personal hygiene facilities, under the control of any person, for [the general] public use, and shall include the following types of such facilities:

(a) Permanent or fixed facilities accessible on a year-round or seasonal basis; and

(b) Temporary facilities which include, but are not limited to, transportable structures which utilize a holding tank or similar container to receive and store wastes generated by use, and which require pumping of stored wastes for off-site disposal.

It shall not include restrooms or similar facilities restricted to use only by employees of any person, where these facilities are located in an area or portion of a structure not available to public access.

[(3) "Septic tank" means a watertight receptacle which receives the discharge of a building sanitary drainage system (or part thereof) and is designed and constructed so as to digest organic matter through a period of detention that allows the liquids to discharge into the soil outside the tank through a system of open joints or perforated piping, or a seepage pit.]

[Section 2. Water Flushed Toilet Facilities. Whenever water flushed toilet facilities are provided for the accommodation of the public or patrons at any public place:]

[(1) The floors shall be of smooth construction and relatively impervious to water.]

[(2) The walls and ceilings shall have a smooth washable surface and shall be painted or finished in light color and shall be maintained in good condition.]

[(3) All openings shall be effectively screened against flies and other insects.]

[(4) All doors shall be self-closing.]

[(5) The plumbing installations shall comply with the state plumbing code.]

[(6) All wastes resulting from flush toilets, lavatories or other fixtures shall be disposed of in a public sewer or, in the absence of a public sewer, by a method approved by the

Natural Resources and Environmental Protection Cabinet.]

[(7) An adequate supply of toilet tissue shall be provided at each toilet facility at all times.]

[(8) The rooms shall be adequately lighted and ventilated.]

[(9) If drinking water is provided, it shall be from a source approved by the Natural Resources and Environmental Protection Cabinet.]

[(10) If drinking fountains are provided, they shall be installed in accordance to the state plumbing code and shall be maintained in a sanitary manner.]

[(11) The use of the common drinking cup is prohibited.]

[(12) Hand-washing facilities, including running water, soap and individual cloth or paper towels, or any other method for drying hands approved by the cabinet, shall be provided.]

[(13) The use of the common towel is prohibited.]

[(14) All trash or refuse shall be kept in nonabsorbent containers and removed from the premises as frequently as necessary to prevent an unsanitary condition from developing. A covered waste container shall be provided in each women's toilet facility.]

[(15) The rooms, including all fixtures therein, shall be kept clean, in good repair and free from dust, dirt, insects and other contaminating material.]

Section 3. Water Supply. (1) The water supply shall be potable, and from an approved public supply of a municipality or water district, if available. In the event a public water supply of a municipality or a water district is not available, the supply for a public restroom shall be developed and approved pursuant to applicable requirements of the Natural Resources and Environmental Protection Cabinet; if a public water supply of a municipality or water district subsequently becomes available, connection shall be made thereto, and the public restroom supply shall be discontinued.

(2) The water supply shall be of adequate quantity and under sufficient pressure to permit proper functioning of sanitary fixtures.

(3) Where drinking fountains are provided, or required by the State Plumbing Code, such fountains shall meet the requirements of that code as to fixture numbers, design and installation, and shall be maintained in proper working order with adequate pressure and in a clean, sanitary condition.

[Section 3. Earth Pit Privies. Outdoor toilets (earth pit privies) not connected to a public sewerage system or septic tank shall be prohibited within the boundaries of cities of the first or second class as provided by KRS 381.780. In other areas, whenever water under pressure is not available, earth pit privies may be used for the accommodation of the public or patrons at any public place provided they comply with the following requirements:]

[(1) Construction of pit privies.]

[(a) The pit shall not be located within 100 feet of any source of water supply and shall have a capacity of not less than fifty (50) cubic feet and shall be not less than four and one-half (1/2) feet or more than six (6) feet deep, measured from the original ground surface.]

[(b) The pit shall be lined with curbing of sound lumber, concrete, or other material approved by the cabinet and extend to the full depth of the pit.]

[(c) The floor and seat riser shall be constructed of impervious material or tongue and groove lumber, and in a manner to exclude insects and rodents. The seat riser shall be so constructed and bonded with the floor as to prevent seepage through the riser onto the floor and the seat opening shall be elevated at least twenty (20) inches above floor level.]

[(d) The superstructure of the privy shall be constructed of substantial material fastened solidly to the floor.]

[(2) Maintenance of pit privies.]

[(a) The floor, seat and other fixtures shall be kept in good repair and clean at all times.]

[(b) An adequate supply of toilet tissue shall be provided.]

[(c) When the pit is filled to within eighteen (18) inches of the floor, the pit shall be cleaned or a new pit shall be constructed. Old pits shall be filled and mounded with earth.]

[(d) The privy shall be adequately ventilated.]

Section 4. Sewage Disposal. (1) All sewage and liquid waste matter shall be disposed of into a public sewer system, if available. If a public sewer system is not available, disposal shall be made into a private sewage disposal system designed, constructed, and operated pursuant to the requirements of the cabinet or the Natural Resources and Environmental Protection Cabinet.

(2) All plumbing shall meet the requirements of the State Plumbing Code.

Section 5. Refuse Disposal. (1) All refuse generated within a public restroom shall be disposed of in a manner approved by the Natural Resources and Environmental Protection Cabinet.

(2) Refuse containers in restrooms may be of open-top or swing-lid design, except in women's restrooms where swing-lid or other covered top containers shall be required.

(3) Bulk refuse storage areas shall be designed, constructed, drained, and maintained so as to prevent rodent and vermin harborage, breeding sites, or insanitary conditions. Bulk refuse containers shall be of approved design and construction, with tight fitting lids, adequate in number, and shall be placed upon an impervious surface within a suitable enclosure to prevent access by animals.

Section 6. Public Restroom Facilities. (1) All public, semipublic and commercial buildings, structures and facilities operated as places of public service, business or assembly, including parks and recreational facilities shall provide public restroom facilities of a type, number and design as specified by the State Plumbing Code. For those types of facilities which are not specifically listed under that code, such as seasonal tent camping areas or limited duration events, restroom facility types, numbers and design shall be determined on a case-by-case basis by the cabinet.

(2) All structures or portions of structures intended for provision of public restroom facilities shall comply with all requirements of the State Building Code relative to design, construction, materials, equipment and fixtures.

(3) All windows used for restroom ventilation

shall be screened to prevent the entry of insects and other vermine.

(4) All restrooms in structures without closed-environment type heating, ventilation and air conditioning (HVAC) systems shall have self-closing doors.

(5) Adequate lighting, of a minimum twenty (20) footcandles of light shall be provided in all restrooms as measured at a height of thirty (30) inches above the floor.

(6) An adequate supply of toilet tissue shall be provided for each toilet stall, cubicle or fixture at all times.

(7) An adequate supply of soap, disposable paper towels, cloth roll-type dispenser towels, or electric hand-drying devices shall be provided in hand-washing areas of all public restrooms.

(8) All walls, floors, ceilings, partitions, stalls, cubicles, fixtures, equipment and other attached or freestanding appurtenances shall be maintained in good repair, accessible to use, and in a clean, sanitary condition. Special attention shall be given to maintain floor areas around drinking fountains, toilets, urinals and hand-washing facilities free of water spillage.

(9) Direct body contact surfaces of toilet seats, toilet and urinal flush valve handles, stall or cubicle door handles and latches, hand-washing fixture handles, and room entry and exit door handles shall be thoroughly sanitized at routine intervals and anytime visible soiling is present.

(10) All persons owning, operating or otherwise responsible for maintenance of public restrooms shall post and maintain a cleaning schedule notice at a conspicuous location within each restroom. The cleaning schedule notice shall state the cleaning and maintenance activities to be performed; their required frequency or time of performance; and, the name, telephone number, and address of the person designated to respond to complaints or comments by users of that public restroom. Such notice shall also include a log sheet section where the person(s) performing cleaning and maintenance activities shall record their name and the date and time the duties were performed.

(11) Public restrooms shall be maintained free of insect or rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall be performed pursuant to applicable laws and regulations.

Section 7. Temporary Facilities. (1) Temporary restroom facilities shall only be permitted for use under the following conditions:

(a) To provide sanitary facilities for short-term, single event public assemblies, not to exceed fourteen (14) consecutive days at any single location, where permanent facilities are unavailable;

(b) To supplement permanent facilities for short-term, single event public assemblies, as defined above, where such permanent facilities are insufficient in number to accept anticipated use in a sanitary manner;

(c) To provide sanitary facilities during a disaster or other emergency situation; or

(d) To provide sanitary facilities for isolated areas of parks and recreational facilities for which approved water service and sewer service is unfeasible, as determined by the cabinet.

(2) Where temporary facilities are permitted

for use they shall be provided for both male and female users and shall be conspicuously marked or identified "Men" or "Women" or similar designations which are readily recognizable.

(3) Temporary facilities shall be designated as single occupant use or multiple occupant use as determined by the following procedure:

(a) A unit structure with a lockable, self-closing door and a single toilet opening with a separate toilet seat, which may or may not include a separate urinal trough or basin within the structure shall constitute a single occupant use facility and shall be considered a single unit for facility sizing purposes;

(b) A unit structure with a self-closing door or doors and two (2) or more partitioned toilet openings with separate seats which may or may not include separate urinal troughs or basins within the structure shall constitute a multiple occupant use facility and shall be considered as equivalent, on a toilet seat per toilet seat basis, to a similar number of single units for facility sizing purposes.

(4) Temporary facility sizing shall be based upon one (1) single unit per each 100 males or females or fraction thereof up to five (5) units per 500 males or females, and an additional single unit per each 200 males or females or fraction thereof in excess of 500 males or females, and in determination of sizing it shall be assumed that users will be equally divided between males and females for any general public attendance event.

(5) If temporary facilities are used to supplement permanent facilities, the specific user capacity of those permanent facilities shall be calculated based upon the requirements of the State Plumbing Code for the specific type of facility or place of assembly, and any additional user capacity needed shall be sized based upon the requirements of subsection (4) of this section.

(6) Where temporary facilities are used for emergency or disaster situations, sizing shall be on a case-by-case basis by the cabinet.

(7) If urinals are provided in multiple occupant use facilities for males, each urinal basin or each eighteen (18) horizontal inches of urinal trough length may be considered as single unit for sizing purposes; however, they shall not be counted for more than thirty (30) percent of the required total of single units for males.

(8) All temporary facilities shall make provision for hand-washing facilities by one (1) of the following methods:

(a) Through use of a portable hand-washing facility provided with potable water from an approved supply, either by direct connection to the supply with protection by approved backflow prevention devices, or by holding tanks, and with wastewater discharge to a waste holding tank; or

(b) Through use of individually prepackaged premoistened disposable paper towels available from a dispensing device mounted within the facility, and conspicuously identified as for use in personal hygiene.

(9) Portable hand-washing facilities, if used, shall be provided with an adequate supply of soap and disposable paper towels.

(10) All temporary facilities shall also meet the requirements for permanent facilities as stated in Section 6(3), (6), (8), (9), (10) and (11) of this regulation.

(11) Adequate natural or artificial lighting

shall be provided for all temporary facilities to allow sanitary use and for proper cleaning and maintenance. If the cabinet determines that artificial lighting is necessary it shall be provided either within the facility or immediately adjacent to it and in a manner which renders direct body contact surfaces visible to the user or service person.

(12) Areas surrounding temporary facilities shall be well drained and maintained to prevent standing water, or the development of mud slicks. The cabinet may require placement of gravel or similar materials in such areas as a preventive measure.

(13) Temporary facilities shall be conveniently and conspicuously located in or near common places of assembly upon the site, but in no case shall be located more than 300 feet from any place of assembly, and shall be equally divided between male and female facilities.

(14) Temporary facility waste holding tanks shall be pumped at frequent intervals to prevent the creation of a public health nuisance through overflow or spillage of human waste, or wastewater from hand-washing facilities. Pumping shall be performed by a septic tank cleaning business licensed by the cabinet.

Section 8. Existing Facilities. (1) Any public restroom facility currently in existence on the effective date of this regulation which does not fully meet the requirements of this regulation as to design and construction may be continued in use and operation, if the facility can be maintained in a safe, sanitary condition and does not create a public health hazard, except that all existing public earth pit privies shall be discontinued from use and replaced by approved facilities by July 1, 1995; and:

(a) All existing privy type or temporary type public restroom facilities or portable units intended for public use, which are not currently fitted with separate toilet seats for each toilet opening shall be fitted with such seats no later than January 1, 1991; and

(b) All existing privy type or temporary type public restroom facilities or portable toilet units intended for public use, which do not provide hand-washing facilities shall meet the requirements of Section 7(8)(b) no later than January 1, 1991.

(2) Existing permanent facilities which are extensively remodeled or altered shall be brought into conformance with this regulation and the State Building Code.

Section 9. Inspection and Enforcement. (1) All public restroom facilities shall be subject to unannounced inspection by the cabinet at any time during normal hours of operation.

(2) There shall be no routine inspection interval established by the cabinet, however, no permanent facility shall be inspected less than once each year, and the cabinet may conduct additional inspections as deemed necessary to enforce compliance with this regulation.

(3) For temporary public restroom facilities, the cabinet may conduct inspection at an interval deemed necessary to assure sanitary maintenance of facilities in conformance with this regulation, but in no instance shall less than one (1) inspection be conducted of any temporary facility unit during the period of operation at a specific site.

(4) Inspections conducted by the cabinet shall be recorded on an official inspection form, and a copy of each inspection shall be presented to the person, or his designated agent, responsible for operation of that public restroom facility. The inspection report shall:

(a) Set forth the specific violations found, if any;

(b) Establish a specific and reasonable period of time for correction of the violation(s) found; and

(c) State that failure to comply with any notice issued pursuant to the provisions of this regulation may result in closure of the public restroom facility.

(5) If the cabinet has reason to believe that an imminent public health hazard exists, or if the person operating the public restroom facility or his agent has interfered with the cabinet in the performance of its duties, the public restroom facility may be closed immediately upon notice to that person without a hearing. In that event the person operating the public restroom facility may request a hearing which shall be granted as soon as practicable.

(6) In all other instances of violation of the provisions of this regulation, the cabinet shall serve upon the person operating the public restroom facility a written notice specifying the violation(s) in question and afford that person a reasonable opportunity to correct same. If a person operating a public restroom facility has failed to comply with any written notice issued under the provisions of this regulation, that person shall be notified in writing that the public restroom facility shall be closed at the end of ten (10) days following service of such notice, unless a written request for a hearing is filed with the cabinet, by that person, within such ten (10) day period.

(7) The hearings provided for in this section shall be conducted by the cabinet at a time and place designated by it. At the conclusion of the hearing, the hearing officer shall make findings of fact, conclusion(s) of law, and recommendation(s) based upon the evidence presented and any matters considered by the hearing officer pursuant to these regulations. The cabinet may accept, reject or modify the findings, conclusion(s) and recommendation(s) of the hearing officer. A transcript of the hearing shall not be made unless the interested party assumes the costs thereof and a request is made therefore at the time a hearing is requested.

(8) Notwithstanding the existence or pursuit of any other remedy civil or criminal, the cabinet may maintain, in its own name, an action to restrain or enjoin any violation of this regulation, irrespective of whether or not there exists an adequate remedy at law.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 10, 1990

FILED WITH LRC: May 30, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990, at 9 a.m. in the Department for Employment Services Conference Room, Second Floor, Cabinet for Human Resources Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General

Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James T. Corum

(1) Type and number of entities affected: The entities affected will be all private and public (government) owners and operators of restroom facilities provided for public use. These entities are currently affected by the existing regulation. However, the amendments to the existing regulation will more clearly establish applicability of standards; modernize standards to more clearly address facility operation, sanitation and maintenance; establish stricter requirements; and, clarify enforcement procedures. An accurate count of facilities and their owners/operators is not available, but an estimate would be in the range of 3,500-4,500 owner/operators and 8,000-10,000 public restroom facilities. Unavailability of an accurate count is in part due to the existing antiquated regulation which does not adequately address modern facilities nor provide for any inspection or enforcement procedures. This has resulted in local health departments assigning a low priority to this program and limiting activities to complaint response or to random inspections only. Accurate counts are, therefore, impossible at this time as all facilities are not being routinely inspected. The amendments are intended to rectify this situation.

(a) Direct and indirect costs or savings to those affected: Implementation of the amended regulation will generate increased direct costs (on a case-by-case basis) to affected entities on an initial basis to meet a compliance level which had previously not been established by the existing regulation and inspection program. The actual cost, either direct or indirect, to affected entities is indeterminate due to the extreme variability of design, operation and maintenance practices, numbers of facilities and age of facilities which may be owned or operated by an entity. For owners or operators of modern facilities who have established maintenance and cleaning schedules no increase in costs should occur, however, for owners of older, poorly maintained facilities, costs may be radically increased both initially for upgrading, and long term for improved maintenance and cleaning activities. Since such facilities run the gamut from outdoor privies at county fairgrounds or parks to older service stations and public buildings to modern shopping malls and sports and convention centers, it is impossible to predict actual costs to an individual entity until after the amended regulations are applied. An existing facilities section is included within the amendments to allow for continuation of use for existing facilities which are not in full compliance with all requirements but can be maintained in a sanitary condition, so wholesale expenditures for upgrading or replacement are not anticipated, except for a phasing out of outdoor pit-type privies. The amendments proposed are directly related to continuing public demands for clean, sanitary, public restroom facilities. While no specific costs or savings to affected entities can be shown as a result of public demands, the provisions of sanitary restrooms can have a profound effect on public usage and business generated at facilities which are served by public restrooms.

1. First year: See above. First year costs are variable based on facility, age, design, maintenance and cleaning. Savings (increased income) may occur through increase business for some entities as a result of sanitary restroom facilities being provided as opposed to former conditions, but this cannot be guaranteed.

2. Continuing costs or savings: Increased maintenance and cleaning activities (and expense) will be necessary for previously poorly maintained facilities, and some facilities may need major remodeling or replacement. Actual costs cannot be assigned due to variabilities mentioned earlier.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs may increase for some owners to meet compliance requirements through needs for additional employees, repairs or replacement of facilities, fixtures or equipment. Those owners who have maintained sanitary facilities under the existing regulations should have little, if any, added expense for compliance other than cost of posting cleaning schedules and listing a complaints receiver. Other potential costs for such owners may include retrofitting of inexpensive toilet seats on portable or outdoor toilet units and a dispenser for prepackaged self-service towelettes for users. Cost for such retrofitting should be less than \$30 per unit if seat, dispenser and towelette supply are needed. For those owners who have not maintained sanitary facilities, costs for compliance will be much greater and could involve substantial replacement or repair expenditures, or permanent closure of the restroom facility. Effects on competition will be variable, as facilities with public restrooms which are in compliance and sanitary are more likely to be patronized by the public than those facilities which have insanitary public restrooms or have none at all. Public comment over several years displays an expectation and demand for clean, sanitary public restrooms. Businesses or other facilities which do not provide clean restrooms are at risk of losing repeat or referral business. Government operated public buildings and other places of public assembly which do not provide clean restrooms also face loss of business or attendance. Tourism can also be affected by the perception of visitors to Kentucky, who being faced with insanitary restrooms either pass on through the state, or never return. To the general public, and to tourists and the visitors to Kentucky, the conditions found within a public restroom reflect upon the attitude of the owner toward them as a customer, guest, or citizen.

(b) Reporting and paperwork requirements: Affected entities which currently utilize a posted cleaning schedule and provide for complaint or comment filing will experience no change. Those entities which do not will experience an increase in reporting (filling out schedules as to work done) and paperwork (creations of schedules, notices for complaint filing and general filing of documents generated) as required by the amended regulation.

(2) Effects on the promulgating administrative body: Will require some minor shifting of staff priorities and resources within the budget unit for initial retraining of state and local health department program staff relative to amendment requirements. Overall funding requirements of the budget unit will not change. Retraining will

be on a short term single event basis within present funding levels. As an existing regulation is being amended, no new program start-up costs are expected, only redirecting of current resources towards increased emphasis on this program. Current staff levels, both state and local, should be adequate to meet program need with only minor redirection of priorities relative to other existing programs also being carried out by the same staff. An initial increase in program activity (inspections, enforcement actions, etc.) may create some short term additional costs but as compliance is met, reduced costs (savings) will occur to counterbalance initial increases.

(a) Direct and indirect costs or savings: See (2) above.

1. First year: See (2) above.

2. Continuing costs or savings: See (2) above.

3. Additional factors increasing or decreasing costs: Once initial period (first year) has ended, acceptable compliance levels should be attained by most affected entities which will allow routine program operations levels to be established based upon existing facility numbers and new facility additions. As actual number of affected facilities is indeterminate at this time, application of the amended regulation will establish an accurate facility count. Based upon the actual count, the number of additional inspections necessary can be established. It is anticipated that the additional inspection workload can be handled with existing staff on the state and local level through work scheduling modification. Also as routine inspections and enforcement become established, the number of complaints should diminish and the time and activities devoted to complaint investigation can be redirected into routine program operation time and services.

(b) Reporting and paperwork requirements: As mentioned above, no additional staffing needs are anticipated, and additional employee time to this program will be a short term increase (first year) initially which will be counterbalanced by lessening time demands as compliance is met and complaints diminish. Paper (forms, regulations, pamphlets, etc.) cost should remain the same as for the existing regulation. New inspection forms and regulation pamphlets will need to be printed; however, existing forms and pamphlet supplies are low and would require reprinting soon in any event, so no real change in continuing cost is anticipated. No new equipment costs will result, as equipment needs for this program are standard to all other programs currently being carried out and such equipment is shared between those programs.

(3) Assessment of anticipated effect on state and local revenues: Funding, staff and other needs may experience a short term increased demand, however such demands can be met through existing resources through minor shifting of priorities and resources with the overall budget unit. Net result is anticipated to be no net increase nor decrease. There currently are no specific fees generating revenue just for this program and none are anticipated, however, should future program demands warrant, the cabinet secretary does have the authority to establish an inspection fee schedule.

(4) Assessment of alternative methods; reasons why alternatives were rejected: "No change" alternative is not feasible due to need to

comply with Chapter 13A requirements. Another alternative such as amendments only to conform with Chapter 13A is not viable, as the existing regulation is antiquated and lacks any enforcement mechanism. Other alternatives were rejected as being inadequate to address the wide range of existing facility designs and their operation and usage, while meeting the public's demands for sanitary facilities (i.e., alternative to address only permanent facilities would ignore the widespread, increasing usage of portable and temporary facilities and not provide for their sanitary operation). The proposed amendment to the regulation address all issues relevant to public restroom facilities whatever their design or usage and are tiered to reflect obvious differences in types of facilities, while assuring a uniform level of sanitation for all facilities. By addition of inspection and enforcement provision which are lacking in the existing regulation, prompt resolution of insanitary conditions can be effected.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This amendment eliminates conflict with the State Building Code and State Plumbing Code which exists in the current regulation.

(a) Necessity of proposed regulation if in conflict: See above.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: See above.

(6) Any additional information or comments: This amendment is necessary to meet the public demand for safe, sanitary public restroom facilities. The existing regulation is antiquated and cannot address this need, and its lack of inspection and enforcement provisions hampers the cabinet in meeting this need and its responsibilities to protect public health. The continuing nature of public complaint on such facilities illustrate the necessity for the amended regulation and the public support it would receive.

TIERING: Was tiering applied? Yes

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. No federal standards or mandate.

2. State compliance standards. This administrative regulation establishes general sanitation requirements for all public restroom facilities, both permanent or fixed facilities and temporary or portable facilities. Statement of all specific standards is infeasible without restating entire regulation in this section due to scope of regulation.

3. Minimum or uniform standards contained in the federal mandate. No minimum standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No federal standards. Current state standards are outdated and inadequate to deal with problem.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No

Relates to public restrooms in all public facilities operated by local governments. Relates also to public restroom sanitation program carried out by local health departments.

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Will affect local government divisions which provide, maintain, and operate public restroom facilities at all public buildings, parks, stadiums, arenas, fairgrounds, or other places of public assembly. Will affect inspection program of local health departments.

3. State the aspect or service of local government to which this administrative regulation relates. Relates to the service or provision of public restroom facilities at all public buildings or other public properties owned or operated by local governments. Also relates to service provided by inspection program of local health departments.

4. How does this administrative regulation affect the local government or any service it provides? Will require local governments to improve sanitation of public restroom facilities they operate. Will require upgrading or replacement of outdated and inadequate public restroom facilities. Will establish standards for provision of temporary public restroom facilities for short term, single event public gatherings which were never addressed in the existing regulation. Will provide local health departments with more enforceable standards to assure sanitary maintenance of public restrooms, and provide them with enforcement powers to compel compliance (nonexistent in the present regulation). Local governments may experience an initial increase in expenditures for upgrading or replacement of some existing public restroom facilities and for upgrading maintenance and cleaning activities to meet amended requirements. Actual costs are indeterminate due to variability in design, maintenance and age of existing facilities. Existing facilities section of amended regulation will also tend to mitigate expenditures as improvements in maintenance and cleaning may be only necessary changes for some existing facilities.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 11:010. Application for licensure; fee.

RELATES TO: KRS Chapter 333, HB 799, 1990 GA, Part 1, G. 56, g. lines 13-17 [516 Part IIA #42 of the 1988 GA]

STATUTORY AUTHORITY: KRS 194.050, 333.070
 NECESSITY AND FUNCTION: KRS Chapter 333 empowers the Cabinet for Human Resources to license and regulate medical laboratories in Kentucky including applications for licenses and the setting of reasonable license fees. The function of this regulation is to establish application procedures for licensure and to establish reasonable licensure fees.

Section 1. Licenses. (1) Except as otherwise provided by KRS 333.040 no person shall operate any medical laboratory in this Commonwealth without first obtaining the appropriate license therefor.

(2) All applications for licensure shall be filed with the Cabinet for Human Resources, Office of Inspector General, Division for Licensing and Regulation, Frankfort, Kentucky 40621 and shall be accompanied by a fee of \$155 [130].

(3) All applicants for licenses shall, as a condition precedent to licensure, be in compliance with the applicable regulations relating to the particular medical laboratory.

(4) All licenses shall expire on December 31 following the date of issuance.

(5) Licenses may be renewed upon payment of eighty (80) [sixty-five (65)] dollars.

C. HERNANDEZ, M.D., Commission
 HARRY J. COWHERD, Secretary

APPROVED BY AGENCY: June 11, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the DES Conference Room, Second Floor, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander/Delano Miller

(1) Type and number of entities affected: 98

(a) Direct and indirect costs or savings to those affected: Increase in amount paid to state for licensure.

1. First year: \$1,470.

2. Continuing costs or savings: These fees are assessed on an annual basis.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No increase.

(2) Effects on the promulgating administrative body: Reprinting of regulations.

(a) Direct and indirect costs or savings:

1. First year: \$100 for reprinting regulations.

2. Continuing costs or savings: Normal reproduction of regulations is a part of ongoing budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No increase.

(3) Assessment of anticipated effect on state and local revenues: Increase of \$1,470 paid to the state.

(4) Assessment of alternative methods; reasons why alternatives were rejected: HB 799 of the 1990 GA directed the Secretary to increase user fees.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: N/A
TIERING: Was tiering applied? No. These are fees that all licensed laboratories are required to pay to defray some of the costs associated with licensure.

**CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)**

902 KAR 13:050. Training, examination and certification.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)
STATUTORY AUTHORITY: KRS 211.964

NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet for Human Resources to adopt rules and regulations relating to emergency medical technicians. The function of this regulation is to establish requirements for training; examination, certification, and renewal and recertification of emergency medical technicians.

Section 1. EMT Training Course Requirements.
The training course shall:

(1) Include the Basic Emergency Medical Technician: National Standard Curriculum (Third Edition, 1984) of the U.S. Department of Transportation and such additions, deletions or changes to the curriculum as prescribed by the cabinet and the accompanying text entitled "Emergency Care," Fifth [Fourth] Edition, 1990 [1986], published by The Brady Company, Prentice-Hall, Inc., Englewood Cliffs, N.J. 07632. A copy of these publications, included by reference as if full incorporated herein, shall be on file in the office of the Emergency Medical Services Branch, Department for Health Services, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621, and shall be available for public inspection between 8 a.m. and 4:30 p.m., Monday through Friday;

(2) Be at least 103 hours in duration;

(3) Not be started until completed course inventory form is received by the cabinet verifying that all equipment, texts, television tapes, and other materials specified are available, in proper quantities, in proper working condition, and placed in secure storage;

(4) Not share equipment between courses unless such equipment is housed in the same building and is available equally to all EMT classes;

(5) Utilize equipment, texts, television tapes and other materials approved by the cabinet;

(6) Be taught by an EMT instructor certified by the Cabinet for Human Resources;

(7) Have at least one (1) EMT instructor-trainee; or one (1) additional EMT instructor;

(8) Have a class certification number assigned by the cabinet;

(9) Be limited to thirty (30) students; and

(10) Not permit more than one (1) lesson absence per student, unless made up at the discretion of the instructor, or made up in a subsequent EMT training course. The lesson made up shall be the same lesson that was missed.

(11) Require each student to sign in for each lesson on attendance sheets provided by the cabinet.

(12) Require the instructor at the end of each course to provide the cabinet the following:

master grade sheet, answer sheets for all written exams, final practical exams, application for certification with prescribed fee, master attendance form and attendance sheets for each lesson.

Section 2. EMT Certification Examination. The cabinet shall prescribe the format and content of the EMT's certification examinations which shall consist of two (2) parts:

(1) Written. The written examination shall be in four (4) parts. An overall passing grade of seventy-five (75) percent, shall be required. In the event an applicant's overall average is less than seventy-five (75) percent, but is seventy (70) percent or more, the applicant may, upon proper application, retake the part in which he made the lowest score. However, should the applicant again fail, he shall be required to retake the entire EMT training course before being eligible for reexamination.

(2) Practical. The applicant shall successfully pass all parts of the final practical examination. In the event he fails to successfully pass all portions of the final practical examination, he shall be permitted one (1) opportunity to retake the part which he failed to pass. However, should the applicant again fail to pass the particular part of the examination, he shall be required to retake the entire EMT training course before being eligible for reexamination. An instructor who is employed by the organization for whom the EMT class is conducted shall not evaluate in the practical examination of that class.

Section 3. Certification of EMTs and EMT-A. The cabinet shall certify EMTs based upon the type of service to be rendered. An EMT engaged in ambulance service shall be issued certification as an "emergency medical technician-ambulance (EMT-A)."

Section 4. Expiration of Certification. All EMT certificates shall expire two (2) years from the date of issuance.

Section 5. Renewal of Certification; In-service Training or Continuing Education Requirements. By September 1, 1991, in order to renew a certificate, the emergency medical technician shall, during his period of certification, attain at least twenty-four (24) [sixteen (16)] hours, twelve (12) hours of which shall be in hands-on skills, of in-service training or continuing education, or a combination thereof, and in addition show evidence of current certification in cardiopulmonary resuscitation as required by the American Heart Association or the American National Red cross.

(1) Subject matter requirements for EMT in-service training or continuing education.

(a) To receive credit for in-service training or continuing education, the applicant for recertification may take in-service training or continuing education on any subject covered by the United States Department of Transportation emergency medical technician curriculum, 3rd edition, or any subject for which instruction is authorized by the Cabinet for Human Resources for the emergency medical technician program in Kentucky.

(b) The applicant for recertification shall submit evidence of successful completion of

instruction in at least six (6) [four (4)] different subject areas, with a maximum of four (4) hours per subject area, of emergency medical technician course subject matter instruction or skills instruction, in addition to cardiopulmonary resuscitation.

(c) The following are not eligible for credit as in-service training or continuing education:

1. Ambulance runs, rescues, firefighting, emergency responses, or similar actual emergency activities.

2. Instruction in material, techniques, or procedures not authorized to be performed by emergency medical technicians.

(d) Evidence of training and CPR certification shall be submitted to the cabinet not less than thirty (30) days before the expiration of the EMT's certification on forms supplied by the cabinet.

(e) The form provided by the cabinet shall contain a certification as to the truth of the information supplied and a statement that all training claimed conforms to the requirements of this regulation and a warning that submission of false information constitutes a violation of law.

(f) Each subject or training course claimed shall be countersigned by the instructor of the subject or course.

(g) Training received as a requirement for continuing education in medicine, nursing, paramedic, or as an EMT in a coal mining situation required by KRS 351.127 is eligible for in-service training or continuing education credit if it meets the criteria of paragraph (a) of this subsection.

(2) Instructors for EMT in-service training and continuing education. The following persons are considered as qualified to conduct in-service training and continuing education courses for emergency medical technicians:

(a) A physician licensed pursuant to KRS Chapter 311.

(b) A registered nurse licensed pursuant to KRS Chapter 314.

(c) A paramedic certified by the State Board of Medical Licensure.

(d) An emergency medical technician instructor or instructor trainer certified by the Cabinet for Human Resources.

(e) An instructor certified by a state or federal agency who is teaching within the area authorized by his certification a course which will qualify for emergency medical technician in-service training or continuing education.

(f) Physicians, registered nurses, paramedics or emergency medical technician instructors currently licensed or certified by another state of the United States of America shall be considered as meeting the requirements of paragraphs (a) through (e) of this subsection, as applicable.

(3) Cardiopulmonary resuscitation requirement. During the second year of the certification period the EMT shall obtain or renew certification in cardiopulmonary resuscitation and related techniques as follows:

(a) The course shall be conducted by the American Heart Association or the American National Red Cross or under its authority by an instructor certified by the American Heart Association or the American National Red Cross.

(b) The course shall be taught for record and shall be certified by the instructor to the American Heart Association or the American

National Red Cross as meeting all applicable standards of the organization.

(c) The course shall provide instruction and testing in:

1. One (1) rescuer cardiopulmonary resuscitation;

2. Two (2) rescuer cardiopulmonary resuscitation;

3. Techniques of changing from one (1) rescuer to two (2) rescuers during the performance of cardiopulmonary resuscitation;

4. Techniques of changing rescuers during the performance of two (2) rescuer cardiopulmonary resuscitation;

5. Techniques for relief of obstruction of the airway;

6. Cardiopulmonary resuscitation of infants and small children;

7. Mouth to mouth/mouth to nose resuscitation for adults, small children, and infants.

(d) The course shall provide for individual skill testing of all adult and infant related skills in subsection (3) of this section.

(e) The applicant for renewal of certification shall forward to the Cabinet for Human Resources a copy of both sides of the certificate issued to him indicating successful completion of the CPR course.

(4) In-service training and continuing education requirements for emergency medical technician instructors and instructor trainers.

(a) An emergency medical technician instructor or instructor trainer shall meet the in-service training or continuing education requirements for recertification in the following manner:

1. Conduct an emergency medical technician course; or

2. Teach one (1) or more lessons of an emergency medical technician course; or

3. Teach one (1) or more lessons of an in-service training or continuing education course; or

4. Conduct a final practical examination or challenge examination for an emergency medical technician course; and

(b) If any of paragraph (a) [2] through 4 of this subsection is [are] claimed for recertification, the total number of hours spent in instructional or examination continuing education [instruction or examinations] shall not be less than sixteen (16) hours. Any combination [of hours] totaling sixteen (16) or more hours may be used; and

(c) An emergency medical technician instructor trainer may utilize time spent in conducting an emergency medical technician instructor course or evaluation in lieu of time required in paragraph (a) of this subsection; and

(d) An emergency medical technician instructor or instructor trainer shall attend either the annual emergency medical technician instructor conference or the annual training session for newly appointed instructors. Time spent at such conferences may be used as credit toward the time required in paragraph (a) or (b) of this subsection; and

(e) Additionally, each emergency medical technician instructor or instructor trainer shall meet the cardiopulmonary resuscitation requirement or shall teach a cardiopulmonary resuscitation course for record or shall teach the cardiopulmonary resuscitation portion of the emergency medical technician course to emergency medical technician students.

Section 6. Temporary Extension of Certificate. Upon a showing of undue hardship in obtaining the required in-service training or continuing education for renewal, the cabinet may extend a certificate for an additional six (6) months.

Section 7. Challenge Examination Procedure. Upon proper application, to include a letter from an employer demonstrating need for certification, and payment of the prescribed fee, the following may take the Kentucky "Challenge Examination," consisting of both written and practical parts, the standards for such examination being the same as for an emergency medical technician course:

(1) U.S. Military Corpsmen, within a period of one (1) year from the date of discharge, who have either a:

- (a) U.S. Army MOS 91B or 91C; or
- (b) Its equivalent for other services.

(2) Emergency medical technicians, currently certified in other states.

(3) Individuals whose emergency medical technician certification has been expired for not more than five (5) years and who were in good standing when certification expired, shall submit the following additional documentation at the time of application:

(a) Proof of previous Kentucky emergency medical technician certification;

(b) A confirmation statement of intent to remain active;

(c) Proof of at least sixteen (16) hours of in-service training or continuing education taught by an instructor meeting criteria as in Section 5(2) of this regulation, to include a minimum of one (1) hour in each of the following areas: airway management, diabetic emergencies, cardiovascular emergencies, multiple trauma, overdose/poisoning, medical/legal (EMS related), and patient assessment. In addition, the applicant shall submit proof of having completed four (4) hours of MAST Trouser Training, taught by an instructor meeting criteria as in Section 5(2) of this regulation; and

(d) Proof of current certification in cardiopulmonary resuscitation as required by Section 5(3) of this regulation.

C. HERNANDEZ, M.D., Commission

HARRY J. COWHERD, Secretary

APPROVED BY AGENCY: June 7, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the DES Conference Room, Second Floor, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Robert P. Calhoun

(1) Type and number of entities affected: This regulation will affect approximately 10,000 emergency medical technicians (EMTs).

(a) Direct and indirect costs or savings to those affected: Will be some increase in cost to EMTs, due to an increase from 16 to 24 contact hours of continuing education.

1. First year: Up to 30% cost increase to each EMT.

2. Continuing costs or savings: Will be up to 30% increase for some EMTs who have a history of accumulating only the minimum contact hours requirement.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Time and distance, as well as fees that may be charged by the in-service providers, required for the EMT to obtain the needed contact hours.

(b) Reporting and paperwork requirements: This regulation will cause negligible changes in reporting and paperwork requirements.

(2) Effects on the promulgating administrative body: This regulation will create a slight increase in duties for staff who review in-service records.

(a) Direct and indirect costs or savings: Regulation will affect no cost or savings.

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: No change from present procedures.

(3) Assessment of anticipated effect on state and local revenues: This regulation will not affect state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The regulation is a compromise to more strict procedures, until a national study underway is completed to correlate skills deterioration with continuing education factors.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No other statute, administrative regulation or government policy conflicts with, overlaps, or duplicates this regulation.

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes. This regulation applies to the EMT level but not to the EMT-first responder level.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes___ No X The exception would be if a local government owns or subsidizes an ambulance service, and they choose to contribute to the cost for providing a part or all in-service required for emergency medical technician recertification.

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Will not affect local government except by their choice.

3. State the aspect or service of local government to which this administrative regulation relates. This regulation does not relate to any aspect of local government.

4. How does this administrative regulation affect the local government or any service it provides? This regulation does not affect any local government service.

CABINET FOR HUMAN RESOURCES
Office of Inspector General
(Proposed Amendment)

902 KAR 20:008. License procedures and fee schedule.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216B.042[0],
216B.105[, Executive Order 86-366]
NECESSITY AND FUNCTION: KRS 216B.042[0] and
216B.105 mandate that the Cabinet for Human
Resources regulate health facilities and health
services. This regulation provides [for the]
requirements for obtaining a license to operate
a health facility and establishes the fee
schedule for a license.

Section 1. Definitions. (1) "Volunteer
service" means an ambulance service in which
none of the drivers or attendants receive any
compensation for their work.

(2) "Inspecting agency" means the Division of
Licensing and Regulation in the Office of the
Inspector General, Cabinet for Human Resources.

(3) "Commission" means the Commission on
Health Economics Control in Kentucky.

Section 2. Licenses. (1) No person shall
operate any health facility 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 Office of the Inspector General,
Division of Licensing and Regulation, 275 East
Main Street, Frankfort, Kentucky 40621.

(4) All applicants for licenses shall, as a
condition precedent to licensure or relicensure,
be in compliance with the applicable regulations
relating to the particular health facility.
Compliance with licensure regulations shall be
ascertained through on-site inspections of the
health facility. Representatives of the
inspecting agency shall have access to the
health facility/health service during the hours
that the facility operates. Any regulatory
violation identified during such inspections
will be transmitted in writing to the health
facility by the inspecting agency. The health
facility shall submit a written plan for the
elimination or correction of the regulatory
violations to the inspecting agency within ten
(10) days. Such plan shall specify the date(s)
by which each of the violations will be
corrected. Following a review of the plan, the
inspecting agency shall notify the health
facility in writing of the acceptability of the
plan. In instances where a portion or all of the
plan is unacceptable, the inspecting agency
shall specify the reasons for the
unacceptability. In such cases, the health
facility shall modify or amend the plan and
resubmit it to the inspecting agency within ten
(10) days.

(5) All licensees shall, as a condition of
licensure or relicensure, be in compliance with
the following reporting requirements unless
otherwise exempted by statute. All licensees
shall have submitted completed annual routine
reports approved by the Commission on Health
Economics Control in Kentucky and any special
reports required by the commission concerning
health services provided, health manpower

employed, or utilization of health services
within forty-five (45) days of the date the
request is mailed. Completed routine semiannual
reports approved by the commission shall be
submitted within thirty (30) days of the date
the request is mailed. Licensees shall be
notified of the content of routine (e.g., annual
and semiannual reports) reports as follows:

(a) Licensees shall be notified of the content
of reports for calendar year 1986 and subsequent
years no later than October 1 of the previous
year.

(b) The cabinet shall recommend the content of
the reports to the commission no later than the
date of the regularly scheduled September
meeting of the commission.

(6) Unannounced inspections shall be conducted
on complaint allegations. Such inspections shall
be conducted utilizing the procedures outlined
under subsection (4) of this section.

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

(8) Licenses may be renewed upon payment of
the prescribed fee and compliance with the
applicable provisions of the licensure
regulations.

(9) 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. A change of
ownership for licenses shall be deemed to occur
when more than fifty (50) percent of an existing
facility or capital stock or voting rights of a
corporation is purchased, leased or acquired by
comparable arrangement by one (1) person from
another.

(10) 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.

(11) There shall be full disclosure to the
commission 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 3. Fee Schedule. (1) Fees for review
of plans and specifications for construction of
health facilities shall be as follows:

| License Type | Rate |
|--|---|
| (a) Hospitals plans and specifications review (initial through final) | \$.04[3] per sq. ft. \$2300 [1900] maximum |
| (b) All other health facilities plans and specifications review (initial through final) | \$.04[3] per sq. ft. \$1200 [1000] maximum |

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

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| License Type | Rate |
|--|---|
| (a) Air ambulance services | \$80 [65] |
| (b) Alternative birth centers | \$155 [130] |
| (c) Ambulatory surgical center | \$155 [130] |
| (d) Chemical dependency treatment service | \$8 [7] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| (e) Community mental health and mental retardation center | \$750 [630] |
| (f) Day health care | \$80 [65] |
| (g) Ambulance service (Per nonvolunteer service) | \$80 [65] |
| (Per volunteer service) | \$20 [15] |
| (h) Family care homes | \$40 [35] |
| (i) Group homes mentally retarded/developmentally disabled | \$80 [65] |
| (j) Health maintenance organizations | \$5 [4] per 100 patients |
| (k) Home health agencies | \$80 [65] |
| (l) Homemaker | \$80 [65] |
| (m) Hospice | \$20 [15] |
| (n) Hospitals | |
| 1. Accredited hospital | \$5 [4] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| 2. Nonaccredited hospital | \$8 [7] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| (o) Intermediate care facilities | \$8 [7] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| (p) Medical detoxification services | No fee |
| (q) Nonemergency health transportation service (per service) | \$80 [65] |
| (r) Nursing home | \$8 [7] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| (s) Outpatient clinics and ambulatory care facilities | \$155 [130] |
| (t) Personal care home | \$4 [3] per bed \$80 [65]/minimum \$800 [650]/maximum |
| (u) Primary care center | \$155 [130] \$25 [20] per satellite |
| (v) Psychiatric hospitals | |
| 1. Accredited | \$5 [4] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| 2. Nonaccredited hospital | \$8 [7] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| (w) Rehabilitation (outpatient) | \$80 [65] |
| (x) Renal dialysis | \$20 [15] per station |
| (y) Rural health clinics | \$80 [65] |
| (z) Skilled nursing facilities | \$8 [7] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |

| | |
|--|---|
| (aa) Special health clinics | \$155 [130] |
| (bb) Specialized medical technologies | \$155 [130] |
| (cc) Mobile health services | \$155 [130] |
| (dd) Comprehensive physical rehabilitation hospitals | |
| 1. Accredited | \$5 [4] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |
| 2. Nonaccredited | \$8 [7] per bed \$155 [130]/minimum \$1,545 [1,300]/maximum |

EDWARD A. WILSON, Inspector General

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 7, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, 2nd Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander/Delano Miller

(1) Type and number of entities affected: 1700 facilities licensed under KRS Chapter 216B.

(a) Direct and indirect costs or savings to those affected: Increase in amount paid to state for licensure fees.

1. First year: \$95,000.

2. Continuing costs or savings: These fees are assessed on an annual basis.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No increase.

(2) Effects on the promulgating administrative body: Reprinting of regulations.

(a) Direct and indirect costs or savings:

1. First year: \$100 for reprinting regulations.

2. Continuing costs or savings: Normal reproduction of regulations is a part of the ongoing budget.

3. Additional factors increasing or decreasing costs: No

(b) Reporting and paperwork requirements: No increase.

(3) Assessment of anticipated effect on state and local revenues: Increase of \$95,000 paid to the state.

(4) Assessment of alternative methods; reasons why alternatives were rejected: HB 799 of the 1990 GA directed the Secretary to increase user fees.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:
None

TIERING: Was tiering applied? No. This is a schedule of fees all health care facilities are required to pay in order to defray some of the costs of licensure.

CABINET FOR HUMAN RESOURCES
Commission for Health Economics Control
in Kentucky
(Proposed Amendment)

902 KAR 20:135. Certificate of need application fee schedule.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(2)

STATUTORY AUTHORITY: KRS 13A.350, 216B.040

NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Commission for Health Economics Control in Kentucky to establish, by administrative regulation, and collect reasonable application fees for certificates of need. 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 \$100 [sixty (60) dollars].

(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 .07 [.06] of one (1) percent.

(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 \$3,600 [3,000], plus an additional fee of .06 [.05] of one (1) percent 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 \$6,500 [5,500] plus an additional fee of .05 [.04] of one (1) percent of the amount in excess of \$10,000,000.

(5) Certificate of need applications which propose a capital expenditure greater than \$30,000,000 shall be assessed a base fee of \$16,000 [13,500] plus an additional fee of .012 [.01] of one (1) percent 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 chairman of the commission within five (5) working days of the date the application is received by the chairman of the commission.

W.R. HOURIGAN, Ph.D., Chairman

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Health Services Auditorium, first floor, 275 East Main Street, Frankfort,

Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: W.R. Hourigan, Ph.D.

(1) Type and number of entities affected: Applicants for certificates of need. The number of entities affected cannot be estimated since the number of applicants vary between fiscal years.

(a) Direct and indirect costs or savings to those affected: There will be increased direct cost for applying for a certificate of need. However, since tiering is applied for the fee schedule, the more expensive and most complicated projects will bear more of the increased costs with lesser projects not being impacted as much. An exact dollar amount increase per application cannot be estimated since the fees are based on the capital expenditure and the number of applications and proposed expenditures vary between fiscal years.

1. First year: The increased application fee cost will be a one time only expense and will not be continuing. The increased fees will be effective the first year of implementation of this administrative regulation and thereafter.

2. Continuing costs or savings: There will be no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None noted.

(b) Reporting and paperwork requirements: No additional or decreased reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The increased application fees will help to cover administrative costs which have increased due to inflation. Estimates from the Congressional Budget Office indicate that the Consumer Price Index (CPI) will increase by approximately 18.8 percent for the years 1989 through 1992.

(a) Direct and indirect costs or savings: Will increase agency funds by approximately \$14,000 annually.

1. First year: The offset in inflation will be experienced during the first year of implementation of this regulation and thereafter.

2. Continuing costs or savings: The increased application fees and inflation will be continuing.

3. Additional factors increasing or decreasing costs: None noted.

(b) Reporting and paperwork requirements: No additional or decreased reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: Will offset inflation by approximately \$14,000 annually.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:
None

TIERING: Was tiering applied? Yes

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Community Safety
(Proposed Amendment)

902 KAR 55:010. Licensing of manufacturers and wholesalers.

RELATES TO: KRS Chapter 218A

STATUTORY AUTHORITY: KRS 194.050, 211.090, 218A.250, HB 799 [516 Part IIA #42] of the 1990 [1988] GA

NECESSITY AND FUNCTION: KRS 218A.150, 218A.160 and 218A.170 authorizes the Cabinet for Human Resources to license manufacturers and wholesalers of controlled substances. It is the purpose of this regulation to establish uniform requirements for such licenses.

Section 1. State License Required of Manufacturers and Wholesalers. No person shall manufacture, wholesale, distribute, or repack any controlled substance in this state without having first obtained a license to do so from the Cabinet for Human Resources.

Section 2. Out-of-state Exemptions. Manufacturers, wholesalers, distributors, and repackers not located within the Commonwealth of Kentucky, but who are registered with the appropriate federal agency pursuant to the provisions of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513: 84 Stat. 1236) and the regulations promulgated thereunder, are hereby exempted from the licensure requirements of this regulation and are authorized to operate as such in this state by virtue of their federal registration.

Section 3. Joint Venture Exemptions. Two (2) or more pharmacies, who engage in a joint venture for the purpose of purchasing drugs in order to effectuate a savings in the purchase price thereof and in which no profit is realized in the transaction by any of the participating pharmacies, are exempt from the licensure requirements of this regulation provided proper records of the transaction are maintained.

Section 4. Qualifications for Licensing. (1) No license shall be issued pursuant to this regulation unless and until the applicant has furnished proof satisfactory to the Cabinet for Human Resources:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character; and

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) A license issued pursuant to this regulation may be suspended or revoked for cause.

Section 5. License Fees; Renewals. All applications for a license under the provisions of this regulation shall be submitted to the Cabinet for Human Resources on forms furnished by the department and shall be accompanied by a license fee of \$240 [200]. All licenses shall expire on June 30th following date of issuance and be renewable annually thereafter upon payment of a renewal fee of \$175 [150] and shall be nontransferable.

Section 6. Codeine Registry. All wholesalers and manufacturers (including distributors and repackers) shall keep a separate codeine registry showing the following: date, registration number of recipient, name of recipient, address, name of preparation, and quantity.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 18, 1990

FILED WITH LRC: May 24, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9:30 a.m. in the DES Conference Room, Second Floor, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Edward Crews

(1) Type and number of entities affected: 18 manufactureres, wholesalers, distributors or repackers of controlled substances.

(a) Direct and indirect costs or savings to those affected:

1. First year: Initial license fee will increase by \$40; renewal will increase by \$25.

2. Continuing costs or savings: Renewal fee will be \$175 annually.

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Application for renewal of license required annually.

(2) Effects on the promulgating administrative body: Increased revenue.

(a) Direct and indirect costs or savings: No change.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues: Increase in revenue of \$450 annually; total projected revenue \$3,150.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Statutory requirements are identical for all manufacturers, wholesalers, distributors and repackers regardless of size, type of business or location. Therefore, all regulated uniformly.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
(Proposed Amendment)

903 KAR 1:010. Private employment agencies.

RELATES TO: KRS Chapter 340, HB 799 of the 1990 GA, part 1, G. 56, g. lines 13-17 [516 Part IIA #42 of the 1988 GA]

STATUTORY AUTHORITY: KRS [194.050,] 340.070

NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS Chapter 340 to regulate employment agencies in Kentucky. The purpose of this regulation is to establish uniform standards and requirements for employment agencies in order to protect the welfare, personal dignity, integrity and sufficiency of the individual citizens of the Commonwealth.

Section 1. Applicability. The provisions of this regulation apply to all "employment agencies," as defined by KRS 340.010(3), that operate in Kentucky.

Section 2. Application for Permit. Applications for a permit to operate an employment agency shall be submitted to the Cabinet for Human Resources, Office of Inspector General, Division for Licensing and Regulation. Initial applications for licensure shall be accompanied by a fee of \$375 [315]. Licenses may be renewed upon payment of \$190 [160].

Section 3. Fee Schedules. (1) Every person conducting an employment agency shall file with the department a schedule of fees to be charged and collected in the conduct of its business. In the schedule, the salary ranges by which the fee is to be computed or determined shall be clearly shown and the maximum fee shall be indicated and shall include charges of every kind rendered by the agency in each case or transaction on behalf of the prospective employer or employee. Changes in the schedule may be made, but no change shall become effective until seven (7) days after the date of filing thereof with the cabinet and until posted for not less than seven (7) days in a conspicuous place in the agency.

(2) A copy of the schedule in effect with changes noted thereon shall be kept posted in the employment agency in a conspicuous place, and the posted schedule and changes therein shall be in lettering or printed of not less than standard pica capitals. The effective date of the original schedule and of each change thereto shall appear on the posted copies. No fee charged or collected shall be in excess of the fee as scheduled.

Section 4. Records. Employment agencies shall keep a record of jobs advertised correlated to show date and publication in which the ad appeared for a period of one (1) year. Each

agency shall file for review by the cabinet its system for maintaining such records. Copies of all job orders and agency agreements shall be retained by the agency for not less than three (3) years.

DARVIN ALLEN, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 22, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, 2nd Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander, Delano Miller

(1) Type and number of entities affected: 100

(a) Direct and indirect costs or savings to those affected: Increase in amount paid to state for licensure fees.

1. First year: \$6,000.

2. Continuing costs or savings: These fees are assessed on an annual basis.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No increase.

(2) Effects on the promulgating administrative body: Reprinting of regulation.

(a) Direct and indirect costs or savings:

1. First year: \$100 for reprinting regulations.

2. Continuing costs or savings: Normal reproduction of regulations is a part of the ongoing budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No increase.

(3) Assessment of anticipated effect on state and local revenues: Increase of \$6,000 paid to the state.

(4) Assessment of alternative methods; reasons why alternatives were rejected: H.B. 799 of the '90 GA directed the secretary to increase user fees.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This regulation established the fees all private employment agencies are required to pay in order to defray some of the costs of licensure.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:270. Maximum weekly benefit rates.

RELATES TO: KRS 341.380

STATUTORY AUTHORITY: KRS 194.050, 341.380

NECESSITY AND FUNCTION: KRS 341.380 requires the Secretary for Human Resources to determine the average weekly wage for insured employment. Fifty-five (55) percent of this amount adjusted to the nearest multiple of one (1) dollar constitutes the maximum weekly unemployment insurance benefit rate for those workers whose benefit year commences on or after July 1, 1990 [1989], and prior to July 1, 1991 [1990]. This regulation applies the mathematical computation required by statute and contains the determination of the maximum weekly benefit rate.

Section 1. The secretary finds the following to exist:

(1) The "total monthly employment" reported by subject employers for the calendar year of 1989 [1988] was 15,976,767 [15,421,347];

(2) The "average monthly employment," obtained by dividing the total monthly employment by twelve (12), was 1,331,397 [1,285,112];

(3) The "total wages" reported by subject employers for the calendar year of 1989 [1988] was \$25,064,324,258 [23,605,828,766];

(4) The "average weekly wage" for the calendar year of 1989 [1988] for insured employment, obtained by dividing the average monthly employment into total wages for such year and dividing by fifty-two (52), was \$362.03 [353.24];

(5) Fifty-five (55) percent of the average weekly wage of \$362.03 [353.24] for the calendar year of 1989 [1988] was \$199.12 [194.28];

(6) However, the "trust fund balance" as of December 31, 1988, was \$333,642,813.27 and KRS 341.380 states that if the trust fund balance on December 31 equals or exceeds \$275,000,000, but is less than \$350,000,000, the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than twelve (12) percent; and]

(7) The prior year's maximum weekly benefit rate was \$166.]

Section 2. On the basis of the above findings, and in accordance with KRS 341.380(3), the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July, 1990 [1989], and prior to the first day of July, 1991 [1990], is determined to be \$199 [186].

DARVIN ALLEN, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 6, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Department of Employment Services Conference Room, Second Floor, in the Cabinet of Human Resources Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Darvin Allen

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: All eligible UI recipients for the year 7/1/90 through 6/30/91.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods available in accordance with statutory requirements.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: This regulation satisfies the statutory requirements of KRS 341.380(3), which mandates that the Secretary determines the maximum weekly rate prior to July 1 of each year.

TIERING: Was tiering applied? No. All claimants treated equally.

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Family Services
(Proposed Amendment)

905 KAR 1:050. Approval of subsidies.

RELATES TO: KRS 199.555, Acts 1990, Chapter 199, Section 2, p. 4-9, Section 4, p. 11-13, 42 U.S.C. 673

STATUTORY AUTHORITY: KRS 194.050, Acts 1990, Chapter 199, Section 2, p. 7-8, Section 4, p. 12, 42 U.S.C. 673 [199.555(3), (4)]

NECESSITY AND FUNCTION: This regulation is required by Acts 1990, Chapter 199, Section 2, p. 7-8 and Section 4, p. 12 [KRS 199.555(3) and (4)]. It serves to set forth guidelines for the implementation of the law on state funded adoption assistance and federal title IV E adoption assistance [subsidized adoptions].

Section 1. The decision to pay a subsidy for the adoption of a particular child shall be the responsibility of the Secretary of the Cabinet for Human Resources or his designated representative and shall be made in the best interest of the [a] child [for whom an equally suitable, unsubsidized adoptive home is not available]. An adoptive subsidy shall be construed as being primarily for the benefit of the child and not the adoptive parents. An adoptive subsidy shall be limited to special

needs children. Special needs children include those children for whom adoptive homes are difficult to find because of age, a sibling group of three (3) or more children, a physical handicap, a mental condition, emotional problems requiring counseling, children who have suffered physical or sexual abuse, and children whose background includes mental illness. [adoptive parents receiving a child or children defined as hard-to-place in KRS 199.555(1).]

Section 2. The child considered for state funded adoption assistance [an adoptive subsidy] shall be [one (1) who is] committed to the Cabinet for Human Resources and [is free for adoption. "Free for adoption" means a child who] has no parents with a legal claim to his [or her] custody. The child considered for federal title IV E adoption assistance shall meet the eligibility criteria established in 42 U.S.C. 673 at the time the adoption proceedings are initiated and have no parents with a legal claim to his custody.

Section 3. Parents receiving a child for subsidized adoption shall meet the same standards as those applied to other adoptive applicants, except as those standards relate to financial resources. Their financial situation shall be [such] that they are able to meet the daily expenses of their existing family, but are unable to care for an additional child without a subsidy.

Section 4. A contract setting forth the scope and limits of the subsidy shall be signed by the adoptive parents and the Secretary of the Cabinet for Human Resources or his designated representative. The amount of the subsidy shall be determined according to the financial needs of the child and the ability of the adoptive parents to meet those needs. The adoptive subsidy shall begin on the date [on which] the adoption judgment is entered and shall continue until the child reaches the age of majority or age twenty-one (21) for handicapped children who receive supplemental security income and are enrolled in a state or federal educational program. [, except that the subsidy may be discontinued if and when the child becomes self-supporting, the adoptive parents are no longer responsible for the support of the child, or the financial condition of the adoptive parents improves to the point that the adoptive subsidy is no long necessary.] The subsidy may be decreased or increased as changes occur in the family situation but shall not exceed the amount which may [would] be paid for foster care for the child and may include or [may] consist entirely of payment for extraordinary medical care. The subsidy for handicapped children who receive supplemental security income after age eighteen (18) is limited to extraordinary medical expenses. The subsidy shall not be altered by the adoptive parents moving out of the state or [out of the] country.

Section 5. Annual contact with the adoptive family shall be made by mail or home visit [in order] to make appropriate adjustments in the amount of the subsidy.

Section 6. The number of subsidized adoptions shall be limited by available funds for the subsidy program.

LARRY MICHALCZYK, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 5, 1990

FILED WITH LRC: June 7, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Employment Services Conference Room, Second Floor, 275 East Main Street, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Brooke Darrow

(1) Type and number of entities affected: Entities affected are adoptive parents of special needs children receiving adoption assistance and individuals between the age of 18 and 21 who may be eligible for extraordinary medical assistance. There is no increase in number affected by Title IV-E, as those children are currently being committed to the department for coverage through the adoption assistance program. It is projected that 10 individuals who reach the age of 18 will qualify for extraordinary medical assistance through this program.

(a) Direct and indirect costs or savings to those affected: There are no direct costs to the entities affected but eligible entities may experience savings as a result of the extraordinary medical assistance.

1. First year: First year savings may result from eligibility for extraordinary medical assistance.

2. Continuing costs or savings: For eligible handicapped individuals between the age of 18 and 21 continued savings may result from extraordinary medical assistance.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no other factors and no effect on competition.

(b) Reporting and paperwork requirements: The only additional paperwork or reporting requirement is an annual contact with a worker for those between the age of 18 and 21 who are eligible for the extraordinary medical assistance.

(2) Effects on the promulgating administrative body: The effect on the promulgating agency is that it brings Kentucky's Title IV-E Adoption Subsidy program in compliance with federal law by allowing all special needs children who meet Title IV-E eligibility requirements to receive Title IV-E assistance. This compliance subsidizes Kentucky's Title IV-E federal funding.

(a) Direct and indirect costs or savings: Indirect savings include compliance with federal law regarding adoption assistance for Title IV-E funding and some reduction in administrative costs due to less paperwork required of staff: Additional costs may result from eligible individuals receiving extraordinary medical assistance.

1. First year: Savings should offset increased costs resulting in no net effect on the agency.

2. Continuing costs or savings: Savings should offset increased costs resulting in no net effect on the agency.

3. Additional factors increasing or decreasing costs: There are no foreseen factors that will increase or decrease cost of services.

(b) Reporting and paperwork requirements: Paperwork requirements should decrease as staff will no longer need to transfer commitment to the cabinet for IV-E Adoption Assistance or complete the required home studies.

(3) Assessment of anticipated effect on state and local revenues: There is an anticipated increase in state revenues for coverage of extraordinary medical expenses for individuals age 18 to 21.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative was considered as statutes require the department to provide subsidies to adoptive parents.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or policy in conflict.

(a) Necessity of proposed regulation if in conflict: There is no conflict in statute, regulation or policy.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: This does not apply as no conflict exists.

(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? No. This proposed regulation is applicable to the Adoption Subsidy Program statewide.

CABINET FOR HUMAN RESOURCES
Department for Social Services
(Proposed Amendment)

905 KAR 2:010. Standards for all child day care facilities.

RELATES TO: KRS 199.892 to 199.896, HB 799, 1990 GA, Part 1, G. 56, g., lines 13-17 [516 Part IIA #42 of the 1988 GA]

STATUTORY AUTHORITY: KRS 194.050

NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to set minimum standards for all child day care facilities.

Section 1. Definitions. The following definitions shall apply to all child day care regulations and standards:

(1) "Day care" means care of a child in any child care facility, which provides full- or part-time care, day or night, to at least four (4) children not related to the operator of the child day care facility by blood, marriage, or adoption away from his own home and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night. The term shall not include child care facilities operated by religious organizations while religious services are being conducted, or kindergarten programs that are part of a public or private educational school system. Child day care includes:

(a) "Type I day care facility" means any

facility other than a dwelling unit which regularly receives four (4) or more children for day care; or any facility, including a dwelling unit, which regularly provides day care for thirteen (13) or more children. If preschool children of any day care staff receive care in the facility, they shall be included in the number for which the facility is licensed.

(b) "Type II child day care facility" means any home or dwelling unit which regularly provides care apart from parents for four (4), but not more than twelve (12) children. The director's own preschool children shall be included in the number for which the home is licensed.

(2) "Cabinet" means the Kentucky Cabinet for Human Resources.

(3) "Secretary" means the Secretary of the Cabinet for Human Resources.

(4) "Child" means a person under eighteen (18) years of age.

(5) "Director" means the person responsible for the day-to-day operation of a facility or program for the care of children.

(6) "Child day care staff" means all persons, including volunteers, who work in a Type I or Type II child day care facility.

(7) "Facility" shall include both Type I and Type II child day care facilities.

(8) "Regularly" means the provision of child day care services at a facility on more than one (1) day in any one (1) week or more than ten (10) hours per week.

(9) "School-age child" shall be considered as one attending kindergarten or above.

(10) "Infant/toddler" shall be considered to be under two (2) years of age.

(11) "Nighttime care facilities" are defined as facilities in which children are received for regular, full-, or part-time care during the night. The hours of facilities providing nighttime care shall conform to the hours established by the state fire marshal for nighttime care, which pertain to day care facilities that are open after 6 p.m.

Section 2. Responsibilities of the Cabinet Licensing Authority. The cabinet shall be responsible for the licensing and supervision of any agency, association, organization, group, or individual who regularly provides full or part-time care during any part of the day or night for four (4) or more children not related to the licensee by blood, marriage or adoption. Authorized representatives of the cabinet shall at all times have the authority to inspect premises, records required by this regulation, and programs of child day care facilities. Inspection by the cabinet shall be unannounced.

Section 3. Licensing Issuance. (1) The license shall be issued for a specified physical location and for operation by a designated sponsor or owner, for specific hours of operation, and for a specified maximum number of children on the premises at any one time. The number of children for which the facility is licensed shall be determined by available space, as determined by the state fire marshal's office; adequacy of program, equipment, and staff as defined in these regulations.

(2) Types of licenses.

(a) A regular license shall be issued when the facility has met all requirements provided for by the regulations of the cabinet under KRS 199.892 to 199.896.

(b) A provisional license shall be issued when, in the opinion of the cabinet, the facility has met all requirements for a regular license, except the required liability insurance and other requirements that require the presence of children in order to monitor. A provisional license may also be issued when the facility does not meet the requirements for a regular license but there is sufficient reason for belief that the facility will comply with minimum regulations within the time period designated by the licensing authority. A provisional license shall be issued for a period not to exceed six (6) months and shall not be renewable.

(3) A license shall not be transferable. A change in ownership of a facility shall require a new application and fee. When circumstances covered by the license change (i.e., number of children to be served, location, hours of operation when the difference is over one (1) hour or changes the facility from day care to night care or vice versa), notification shall be made in writing to the Division for Licensing and Regulation. Notification shall be made within the time established under Section 11 of this regulation. This does not require an additional fee.

(4) The license shall be posted in a conspicuous place.

Section 4. (1) Licensing fees shall be:

(a) Eighty (80) [Sixty-five (65)] dollars for all new Type I facilities.

(b) Forty (40) [Thirty-five (35)] dollars for all new Type II facilities.

(c) Forty (40) [Thirty-five (35)] dollars annual renewal fee for all facilities.

(2) A check or money order payable to the Kentucky State Treasurer shall be attached to the license application. Initial application fees shall not be refundable. Renewal fees shall be refunded if relicensure is denied but not if a license is revoked.

Section 5. Licensing Procedure. (1) To qualify for a license, a child day care facility shall comply with regulations and standards established by the cabinet.

(2) An applicant for licensure shall:

(a) Complete three (3) copies of the application, which may be obtained from the Cabinet for Human Resources, Division for Licensing and Regulation, Frankfort, Kentucky 40621.

(b) Comply with local zoning requirements.

(c) Secure approval of the office of the state fire marshal or his designee.

(d) Send application fee, and two (2) completed applications to the Cabinet for Human Resources, Division of Licensing and Regulation, Frankfort, Kentucky 40621.

(e) Keep one (1) copy on file.

(3) To obtain the license to open, a child day care facility shall have:

(a) A current report (within the last year) of negative TB test on all child day care personnel and adults who reside on the premises.

(b) Approved sewage system in accordance with local, county and state laws.

(c) Been surveyed by a representative of the Cabinet for Human Resources to determine if the facility qualifies for licensing, based on the regulations.

(d) Adequate equipment, supplies, and staff to serve initial enrollment of children.

(4) No facility subject to licensing shall begin operation without a license to operate from the Cabinet for Human Resources.

(5) A facility operating without having a license shall be subject to legal action.

Section 6. License Renewal Procedure. (1) Facilities shall be relicensed annually from the date of issuance of the original license.

(2) To be eligible for relicensure, a child day care facility shall:

(a) Submit a renewal application and fee prior to the expiration date of the current license.

(b) Comply with the applicable provisions of the child day care licensure regulations. Compliance will be verified through on-site inspection by representatives of the Cabinet for Human Resources.

Section 7. Basis for Revocation or Denial. The secretary may deny or revoke a license for failure to meet the standards set by the secretary after the expiration of a period not to exceed six (6) months from the date of the first official notice that standards have not been met. When a license is revoked the applicant/licensee shall not reapply for a period of at least six (6) months.

Section 8. Right of Appeal. (1) When a regular license has been denied or revoked, the licensee shall be notified in writing of the right to appeal. The request for a hearing shall be made in writing within fifteen (15) days after receiving the notice of the action of the secretary.

(2) Upon receipt of the request for a hearing, the secretary or his representative shall notify the licensee in writing within fifteen (15) days of the time and place of the hearing. The secretary shall appoint a hearing officer to review the record, take additional evidence, and make recommendations upon the matter appealed.

(3) Based upon the record and upon the information obtained at the hearing, the hearing officer shall affirm or overturn the initial decision of negative action. Such decision shall be considered final. The licensee shall be notified in writing of the decision of the hearing officer. Where regular license denials or revocations are upheld, the cabinet's notification shall specify the date by which the facility shall close.

(4) A child day care facility continuing to have children in attendance after the closing date established by the secretary, shall be subject to legal action by the cabinet as provided by law.

Section 9. Administrative Responsibilities.

(1) General.

(a) The licensee shall have primary responsibility to the cabinet for maintaining adequate standards of operation in accordance with the child day care regulations.

(b) Staff shall be instructed in the requirements for operation and a copy of the minimum standards shall be available for their use.

(c) Liability insurance shall be carried by the facility.

(d) All information concerning children, their parents, relatives, or guardian shall be kept in

strict confidence by the staff, except for sharing information with individuals who are personally or professionally responsible for the well-being of the child.

(e) Volunteers must abide by the policies and procedures of the center.

(f) Program policies and procedures shall be in writing and shall include personnel policies, job descriptions, organization charts, chain of command, and other rules and regulations pertaining to the operation of the facility.

(2) Services. The services to be provided within the child day care facility shall be clearly stated at the time of the application. A written statement of services and policies shall be given to parents.

(3) Staff-child ratios.

(a) Minimum staff-child ratios for all facilities shall be maintained throughout the times that a facility is in operation, as follows:

| Age of Children | Ratio |
|-----------------|---|
| Under one year | 1 staff for 6 children |
| 1 to 2 years | 1 staff for 6 children |
| 2 to 3 years | 1 staff for 10 children |
| 3 to 4 years | 1 staff for 12 children |
| 4 to 5 years | 1 staff for 14 children |
| 5 to 7 years | 1 staff for 15 children |
| 7 and older | 1 staff for 25 children (for before and after school) 1 staff for 20 children (for full day of care) |

(b) When only one (1) staff member is present in the facility, the age of the youngest child determines the staff-child ratio. In no case may one (1) adult alone provide care for more than ten (10) preschool children, or for more than fifteen (15) school-age children.

(c) Children under care shall never be left without adult supervision. Additional staff shall be employed during cooking and cleaning periods if necessary to insure adequate supervision of the children.

(d) In facilities where more than one (1) staff member is present, the age of the youngest child in the group shall determine the staff/child ratio as set forth in paragraph (a) of this subsection

(4) Director.

(a) The director shall assume responsibility for supervision and conduct of staff.

(b) The director shall provide a child care program which meets the regulations herein set forth.

(c) The director shall have the ability to supervise personnel and carry out personnel policies, including scheduling of daily activities, conducting staff meetings, and visiting classrooms to guide teaching staff.

(d) The director shall be able to develop center plans, policies, procedures and budgets in compliance with state regulations.

(e) The director shall have the ability to provide for health, safety and comfort of children, including fire drills, regulating heating, lighting and carrying out emergency measures in case of illness, accident or fire, and reporting suspected child abuse or neglect.

(f) The director shall be able to evaluate the teaching activities of staff and identify any problems with emotional development, including

identifying children's problems with vision, speech and hearing, and assist in obtaining appropriate treatment or necessary services.

(g) The director shall assure that additional staff is available during cooking or cleaning hours if necessary, to maintain supervision of the children.

(5) Staff.

(a) At all times a staff person shall be on duty who is trained in pediatric first aid including CPR.

(b) At all times one (1) adult shall be designated as being in charge. In the event that the director is not present in the center, the adult left in charge shall be capable of carrying out the duties of the director.

(c) A minimum of two (2) qualified substitutes with current negative tuberculin test reports at the time of employment, shall be available in case of need.

(d) The minimum of adult workers in a center shall be sufficient to ensure that minors under eighteen (18) years of age and student trainers are at all times under direct supervision. No person under age of sixteen (16) shall be counted as part of the staff/child ratio.

(e) No controlled substance or alcohol use, or staff under the influence shall be permitted on the premises.

(f) Smoking by staff shall be permitted only in designated areas away from the children.

(g) Staff members shall remain awake while on duty.

Section 10. Records. The following records shall be maintained at the facility:

(1) Sufficient records to identify the individual children and to enable the person in charge to communicate with the parents or persons designated as being responsible for the child either at their home or place of employment, and in a medical emergency, with the family physician.

(2) Each child's medical history, along with authorization for emergency medical care, signed by the parent or guardian and left with the center director at the time of enrollment.

(3) Except as provided in KRS 214.036 immunization records for preschool children shall be on file within thirty (30) days of admission. The facility shall have ninety (90) days to obtain evidence that immunizations are current in accordance with 902 KAR 2:060 as revised.

(4) Permission for trips off the premises, signed by the parent or guardian.

(5) Daily attendance records of children.

(6) For each employee, a copy of the results of a TB skin test administered within the last year of the date of his/her employment.

(7) A written schedule of staff working hours.

(8) A written record of staff training.

(9) A written plan for staff development.

(10) A written record of monthly fire drills and quarterly disaster drills.

(11) A written plan and/or diagram outlining the course of action in the event of natural or manmade disaster.

(12) Criminal records check on staff and volunteers. If the volunteer does not replace staff, is never alone with children, and has no supervising responsibility, then he would not be considered a volunteer for the purpose of criminal records check.

Section 11. Reports of the following shall be made to the cabinet:

(1) Any serious occurrences involving children including accident or injury requiring extensive medical care and/or hospitalization; or death; or any form of child abuse; or fire or other emergency situations; or any incident which results in legal action by or against the center which affects any child or children or personnel; within twenty-four (24) hours.

(2) Change of director, within one (1) week.

(3) Notification of the following shall be made to the cabinet sufficiently in advance to allow for approval before implementation:

(a) Change of ownership/sponsorship.

(b) Change of location.

(c) Increase in capacity.

(d) Change of hours of operation.

(e) Change of services.

Section 12. Child Abuse or Neglect. (1) Each licensed facility shall maintain a child care program which assures affirmative steps are taken to protect children from abuse or neglect while said children are under the supervision of employees of the facility. Such a program is to include procedures to inform employees of the licensee of the laws of the Commonwealth pertaining to child abuse or neglect.

(2) No day care facility may employ any person convicted of child abuse or neglect.

Section 13. Staff Requirements. (1) Type I facility. After the effective date of this regulation, a director hired in a Type I facility shall have a minimum educational requirement of a child development associate credential (CDA), based on national competency standards, or associate of arts with an emphasis in child development or bachelor's degree in a related field from an accredited college or university or competency-based vocational training. This educational requirement shall be supplemented by a minimum of two (2) years of satisfactory full-time paid experience in working with young children in a group. Three (3) years of full-time paid experience in a child care facility may be substituted for the required education, making a total of five (5) years experience necessary. All experience must be verified. The director shall be at least twenty-one (21) years of age and have at least two (2) character references from nonrelatives. This provision does not apply to directors employed prior to the effective date of this regulation.

(2) Type II facility. A child care director in a Type II facility, after the effective date of this regulation, shall have as a minimum educational requirement of a general equivalency diploma (GED) or a high school diploma and have completed at least twelve (12) hours of child development training during the first six (6) months of operation. The director must be at least twenty-one (21) years of age.

Section 14. Staff Training. (1) Directors employed after the effective date of this regulation, unless qualified by a bachelor's degree in early childhood education/development or a bachelor's degree in a related field supplemented by a minimum of two (2) years of full-day experience in a child care setting, shall complete twelve (12) hours of specialized training prior to receiving a regular license.

This training must be completed before or within the first six (6) months of operation while the facility operates on a provisional license.

(2) The director and all child care staff shall participate in at least six (6) hours of training annually beginning January 1, 1988. This training shall be designed to improve the quality of child care.

(3) Staff shall be trained in pediatric first aid, including CPR, to permit a staff member with this training to be on duty at all times.

(4) All training shall have prior approval of the cabinet according to guidelines developed by cabinet staff.

(5) Training shall be documented in writing by the provider.

Section 15. Physical Facilities. (1) Building.

(a) The building shall be suitable for the purpose intended and should maintain a minimum of thirty-five (35) square feet of space per child used for play, exclusive of the kitchen, bathroom, and storage areas. It shall be kept clean and in good repair.

(b) If all or any portion of the building is used for purposes other than day care, necessary provisions shall be made to avoid interference with the day care program.

(c) The building shall be so constructed that it is dry, adequately heated, ventilated, lighted, that windows, doors, stoves, heaters, furnaces, pipes, and stairs are protected; that screening is provided on windows and doors which are left open.

(d) There shall be a minimum of one (1) toilet and wash basin for each twenty (20) children. In boy's bathrooms if urinals are used, urinals may be substituted for up to one-half (1/2) of the number of toilets required. Toilet facilities shall be cleaned and sanitized daily.

(e) The kitchen shall be clean and equipped for the proper preservation, storage, preparation, and serving of food, and shall not be used for any other activities of the center.

(f) The center shall be equipped with a telephone accessible to the rooms used by the children.

(g) If care is provided school-age children, a separate area or room shall be provided.

(h) Separate toilet facilities for males and females, or a plan whereby the same facilities are used at separate times, shall be provided for school-age children.

(i) No child shall return from the toilet to activities without first washing hands. Children shall wash their hands with soap and warm, running water prior to eating and after toileting.

(j) If the only food served by the center is an afternoon snack for the school-age children, a kitchen is not required if adequate refrigeration is available.

(k) Indoor areas for infants/toddlers shall be provided separated from areas used by older children. The infants/toddlers may participate in activities with older children for short periods of time.

(l) There shall be adequate crawling space for infants/toddlers protected from older children away from general traffic patterns of the center.

(m) Each area used for infants/toddlers shall have direct access to hand-washing facilities.

(n) If a facility provides an outdoor play area and cares for infants and toddlers, a protected outdoor area, with sun and shade and

out of the traffic pattern of older children, shall be provided.

(o) Plans and specifications for new buildings and/or additions which are to be constructed for day care facilities shall be approved prior to construction by health and fire safety officials having jurisdiction.

(2) Grounds.

(a) Any outdoor play area shall be fenced unless a fence is determined unnecessary for the safety of the children and waived by the Office of Inspector General, Division of Licensing and Regulation in writing. The outdoor play area shall be free from litter, glass, rubbish, and inflammable materials and adequate in size to accommodate the number of children using the area at a particular time. The outdoor area shall be safe and drained.

(b) If a facility does not have an outdoor play area, the indoor space to be used as a play area has to be a minimum of sixty (60) square feet per child using the area at any one time separate from and in addition to the thirty-five (35) square feet minimum as described in subsection (1)(a) of this section, and include gross motor equipment and be well-ventilated and heated.

(c) If a facility does not have a fenced outdoor play area or an indoor play area, a bus may be used to transport children to a fenced playground. Transportation guidelines shall be in accordance with Section 18 of this regulation.

(3) Equipment.

(a) All equipment and furnishings shall be in good repair. There shall be safe play equipment in good repair, both indoors and outdoors, to meet the physical and other developmental needs and interests of children of different age groups.

(b) Each center shall have enough toys, play apparatus, and age-appropriate developmental materials to provide each child with a variety of activities during the day as specified in Section 16 of this regulation.

(c) Tables and chairs shall be of a suitable size for children.

(d) There shall be storage space in the form of low open shelves accessible to the children.

(e) Individual space for children's clothing shall be provided.

(f) An individual cot, crib, baby bed or two (2) inch thick mat shall be provided for each child in attendance for more than three and one-half (3 1/2) hours per day. Cribs shall have a firm, comfortable waterproof mattress. For sanitary reasons, individual sheets and covers shall be provided for each child and shall be laundered as needed. Where mats are used, floors shall be warm and free from drafts and dampness. Cots and all other equipment and furnishings shall be properly spaced so as to allow free and safe movement by children and adults.

(g) Tiered cribs shall not be allowed.

(h) Supplies shall be stored so that the adult may reach them without leaving the child unattended.

(i) There shall be a variety of safe, clean, washable toys, appropriate to the age levels and number of children present. Toys shall be too large to swallow, durable, and without sharp points or edges.

(j) Chairs shall be provided for staff to use when feeding, holding or playing with children.

(k) There shall be safe equipment that encourages crawling, walking, and climbing.

Section 16. Care of the Children. (1) Program. The day care center shall provide a planned program of activities geared to the individual needs and developmental levels of the children served. These activities shall provide experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being. Activities of anyone living in the facility shall not interfere with the day care program. The daily program shall be under adult supervision and shall provide:

(a) A variety of creative activities which may include the following: art, music, dramatic play, stories and books, science, and block building.

(b) Indoor and outdoor play in which the children make use of both small and large muscles.

(c) A balance of active and quiet play, including group and individual activities, both indoors and outdoors.

(d) Opportunities for a child to have some free choice of activities and to play alone, if he/she desires, or with others.

(e) Opportunities to practice self-help procedures in respect to clothing, toileting, hand-washing, and feeding.

(f) Activity areas, equipment, and materials so arranged that the child's activities are visible to the supervising staff.

(g) Regularity of routines to afford the child the security of knowing what is coming next.

(h) Sufficient time for activities and routines so that children can progress at their own developmental rate.

(i) No long waiting periods between activities or prolonged periods during which children must stand or sit.

(2) Discipline. Disciplinary methods shall be in writing and implemented through positive guidance to help the individual child develop self-control and assume responsibility for his acts. The center shall:

(a) Establish simple and consistent rules both for children and staff that set the limits of behavior.

(b) Not subject children to harsh or physical discipline; loud, profane, threatening, frightening or abusive language shall not be used by staff or any other person on the premises.

(c) Not associate discipline with rest, toileting, or food.

(3) Health.

(a) Sufficient first aid supplies shall be available to provide prompt and proper first aid treatment. Written provisions shall be made for obtaining emergency medical care.

(b) Any child showing any signs of communicable illness may not be admitted. If a child becomes ill during the day, he/she shall be placed in a supervised area isolated from the rest of the children. In a situation where a child becomes ill, the parent or authorized person shall be contacted immediately and arrangements will be made to remove the child from the center.

(c) No medication shall be given to a child except as prescribed by a duly licensed physician and/or on written daily request of the parent or guardian. The center shall keep a written record of the administration of each medication, including time, date and amount. Medication shall be properly labeled and stored

in a separate place out of reach of children. Prescriptions shall be in the original bottle and properly labeled. At no time will medication be given to a child if the expiration date on the bottle has passed.

(d) Good personal hygiene shall be practiced by all persons in the center and children shall be helped with their personal care and cleanliness.

(e) Diapering and toilet training shall be a relaxed, pleasant activity. Toilet training shall be coordinated with parent or guardian.

(f) Adequate quantities of freshly laundered or disposable diapers and clean clothing shall be always on hand.

(g) The infants/toddlers shall be kept clean, dry and comfortable throughout the day. Diapers and/or wet clothing shall be changed promptly.

(h) Soiled diapers shall be stored in covered containers temporarily and shall be washed or disposed of at least once a day.

(i) When a child is diapered, the child shall be placed on a fresh washable surface or disposable covering.

(j) Individual washcloths and towels shall be used to thoroughly clean and dry the child's buttocks.

(k) When training chairs are used, they shall be emptied promptly and sanitized after each use.

(l) Caregivers shall wash hands with soap and running water after diapering or toileting each child.

(m) The infant's formula shall be prepared and provided by the parent. An exception may be made for facilities that qualify for the child-care food program, or provide formula as a fringe benefit to the parent.

(n) Bottles shall be individually labeled and promptly refrigerated.

(o) Caregivers shall wash hands with soap and running water immediately before feeding children.

(p) At no time shall a child be placed in bed with a propped bottle.

(q) All children's shoes and restrictive clothing shall be removed for sleep periods.

(r) The children in attendance shall have sufficient supervised rest not to exceed two (2) hours at any one time except in nighttime care, for their ages and for the number of hours spent at the facility.

(s) The water supply shall be approved by the local health department. Drinking water shall be freely available and individual drinking cups provided where no fountains are provided.

(t) Toilet articles such as combs, brushes, toothbrushes, towels and washcloths used by children shall be individual and plainly marked.

(u) The facility shall provide all children present at meal times with a meal which includes a food from each of the four (4) basic food groups except for breakfast, which shall be from the three (3) groups of bread and cereal, milk, fruit juices or vegetables. Adequate amounts of food shall be available. The center shall provide a midmorning and midafternoon snack. All school-age children shall be provided a snack after school. Snacks shall include one (1) or more of the following foods: milk, fruit, vegetables, juice, enriched grain products, protein rich foods such as peanut butter or cheese.

(v) Children shall be seated at eating time with sufficient room to manage food and tableware.

(w) Individual eating utensils shall be of size and design that children can handle easily.

(x) Weekly menus shall be prepared, dated and posted in advance in a conspicuous place. Menus shall be kept on file for thirty (30) days.

(4) Nighttime care.

(a) No child in care is permitted to spend more than sixteen (16) hours in the facility during one (1) twenty-four (24) hour period or day. Where school-age children are served, time spent in school shall be included in the sixteen (16) hour limit.

(b) At least one (1) staff member shall be stationed in an area on the same floor with children, either in or adjacent to each sleeping room.

(c) A nighttime care facility, if children are present for extended periods of time during their waking hours, shall provide a program of well-balanced and constructive activities geared to the age levels and developmental needs of the children served.

(d) Children sleeping three (3) hours or more shall sleep in pajamas or nightgowns. School children shall be offered breakfast if they go to school from the center.

Section 17. Health and Sanitation. (1) All facilities that serve a meal are to have a three (3) compartment sink or such other equipment and procedures approved by the cabinet for the purpose of washing and sanitizing all dishes, silverware, eating and cooking utensils after use.

(2) Type I and Type II facilities shall conform to the following minimum food service and sanitation guidelines for day care homes and centers:

(a) Food supplies. All food shall be from sources approved or considered satisfactory by the health authority and shall be clean, free from spoilage, free from adulteration and misbranding and safe for human consumption. No hermetically sealed, nonacid and low-acid food which has been processed in a place other than a commercial food-processing establishment shall be used. Food served shall be from a source which is in compliance with applicable state and local laws and regulations. Established commercial food stores may be assumed to be an acceptable source.

(b) Food protection.

1. All food, while being stored, prepared and displayed or served shall be protected against contamination from dust, flies, rodents and other vermin; unclean utensils and work surfaces; unnecessary handling; coughs and sneezes, flooding, drainage and overhead leakage.

2. All potentially hazardous food shall, except when being prepared and served, be kept in a safe environment for preservation.

3. Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use. Potentially hazardous frozen food shall be thawed at refrigerator temperatures or under cool, potable running water, or quick-thawed as part of the cooking process, or by any other method satisfactory to the health authority.

4. Each cold-storage facility used for storage of perishable food in nonfrozen state shall be provided with an indicating thermometer or other appropriate temperature measuring device.

5. Convenient and suitable utensils, such as forks, knives, tongs, spoons or scoops, shall be

provided and used to minimize handling of food at all points where food is prepared.

6. Poultry, pork and their products which have not been specially treated to destroy bacteria, including trichinae, shall be thoroughly cooked. Fruits and vegetables shall be washed before cooking or serving.

7. Meat salads, poultry salads, potato salads, and cream filled pastries shall be prepared with utensils which are clean and shall, unless served immediately, be refrigerated pending service.

8. All food shall be stored in clean racks, shelves or other clean surfaces. Food in nonabsorbent type containers may be stored on the floor when it is maintained in an acceptable sanitary condition.

9. Individual portions of food once served to a child shall not be served again; provided, however, that wrapped food, which is still wholesome and has not been unwrapped, other than potentially hazardous food, may be reserved.

10. All poisonous and toxic material shall be properly identified and stored in cabinets which are used for no other purpose, or stored in a place outside food storage, food preparation, and utensil storage areas.

(c) Personnel.

1. Health and disease controls: No person while infected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a facility in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other individuals. If the manager or person in charge of the facility has reason to believe any employee has contracted a disease, he shall advise that employee to seek appropriate treatment.

2. Cleanliness. All employees shall maintain personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly before starting work, and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his/her hands.

(d) Food equipment and utensils.

1. All food contact surfaces of equipment and utensils used in a facility shall be smooth, free of breaks, open seams, cracks, chips, and also be accessible for cleaning, and nontoxic.

2. Cleanliness of equipment and utensils. All eating and drinking utensils shall be cleaned after each usage. All kitchenware and food contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in preparation or serving of food or drink, and all food storage utensils, shall be cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day. All utensils and food contact surfaces of equipment used in preparation, service, display, or storage of potentially hazardous food shall be cleaned prior to such use. Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition. After cleaning and until use, all food contact surfaces of equipment and utensils shall be stored and handled as to be protected from contamination. All single-service articles shall

be stored, handled, and dispensed in a sanitary manner, and shall be used only once.

(e) Sanitary facilities and controls. All facilities shall have lavatories located in or immediately adjacent to all toilet rooms.

(f) Vermin control.

1. Effective control measures shall be utilized to minimize the presence of rodents, flies, roaches, and other vermin on the premises.

2. Unless flies and other flying insects are absent from the immediate vicinity of the establishment, all openings to the outer air shall be effectively protected against the entrance of such insects by self-closing doors, closed windows, screening, controlled air current, or other effective means.

(g) Other facilities and operations (floors, walls and ceilings). Walls and ceilings shall be smooth and constructed to be easily cleanable. All walls and ceilings shall be kept clean and in good repair.

(h) Ventilation. The kitchen in a facility shall be adequately ventilated to the outside air.

(i) Water supply. The water supply for the facility shall be properly located, protected and operated, and shall be adequate and of an approved source.

1. The water supply is favorably located away from all possible sources of contamination and is easily accessible to encourage its use. The approved distance from toilets, septic tanks, etc., may vary, depending upon type of soil, topography, etc. The source of water supply is a public water supply, approved by the Cabinet for Natural Resources and Environmental Protection, or a spring, or well, or cistern which complies with the specifications for construction and protection required by the Cabinet for Natural Resources and Environmental Protection.

2. The water supply is adequate in quantity and pressure to permit unlimited use.

3. All ground water supplies for facilities caring for more than twenty-five (25) children shall meet the specifications of the Cabinet for Natural Resources and Environmental Protection. Facilities caring for twenty-five (25) children or less may secure approval from the local health department.

4. Individual drinking cups or paper cups are required.

(j) Sewage and solid waste disposal. All sewage and solid waste shall be properly disposed of and solid waste shall be kept in suitable receptacles in accordance with local, county and state laws.

1. All sewage and liquid wastes are disposed of in a public sewer or, in the absence of a public sewer, by a method approved by the Cabinet for Natural Resources and Environmental Protection. Consultation will be sought from the Cabinet for Natural Resources and Environmental Protection or the local sanitarian having jurisdiction on facilities in which the adequacy of the plumbing is questioned.

2. All waste paper and solid waste is disposed of in a manner approved by the state and local health regulations. Easily cleanable containers shall be provided for storage of waste materials. All garbage and rubbish containing food waste shall be stored in containers and kept covered.

(k) Toilet and hand-washing facilities. Each facility shall be provided with adequate and conveniently located toilet and hand-washing

facilities. Toilets shall be kept in clean condition, in good repair, lighted and ventilated. In case privies are permitted and used, they shall be of sanitary type, constructed and operated in conformity with the standards of the Cabinet for Human Resources. Hot and cold water under pressure, soap and approved towels shall be provided at lavatories. Covered waste receptacles shall be provided in each toilet room.

1. Adequate toilet facilities, in desirable locations are provided. Hand-washing facilities shall be adequate and conveniently located. Privies shall be constructed and operated in accordance with the standards of the Cabinet for Human Resources.

2. Each toilet room shall be lighted, ventilated to the outside air, and kept in good repair.

3. A supply of toilet paper is to be on hand at all times. Soap and individual cloth or paper towels are provided. Most new commercial soap dispensers are satisfactory.

4. Easily cleanable receptacles shall be provided for waste materials.

5. Hand-washing facilities are of such type that the washing of hands under warm running water may be accomplished.

6. All openings to the outer air in the toilet rooms are effectively screened.

Section 18. Transportation. (1) When transportation is provided directly, contracted for or arranged by a day care facility, these requirements shall apply:

(a) There shall be conformance to state laws pertaining to vehicles, drivers and insurance.

(b) The staff-child ratio set in this regulation in Section 9(3) of this regulation, shall apply when not inconsistent with special requirements or exceptions in this section.

(c) Any center providing transportation service shall have an individualized written plan and statement of transportation policies and procedures.

(d) Each child shall have a seat and remain seated while the vehicle is in motion.

(e) On any vehicle equipped with seat belts, these shall be used to secure individual children.

(f) All vehicles used to transport children shall be designed and offered with seats for each passenger as manufactured standard equipment.

(g) A vehicle containing children shall never be left unattended.

(h) The maximum number of children under the age of six (6) a driver shall supervise alone is five (5). The staff/child ratios shall apply after this number. No children under two (2) years of age shall be transported unless restrained in an approved safety seat or accompanied by another adult.

(i) A child under age six (6) shall not be left unattended at the time of delivery.

(j) If the parent, or a person authorized by the parent to accept the child, is not present upon delivery of the child, a note shall be left explaining where the child can be picked up.

(k) If anyone other than the authorized person is to receive the child, such arrangements shall be made by the parent or guardian.

(2) The vehicle shall not pick up and deliver children to a location which would require the

child to cross the street or highway unless accompanied by an adult.

(3) The following standards shall be met when transportation is provided by any means other than licensed public transportation:

(a) The vehicle shall be maintained in good mechanical/operable condition at all times.

(b) A thorough inspection of the vehicle shall be made and documented by a qualified mechanic at least every six (6) months.

(c) Vehicles used to transport children, which require other traffic to stop while loading and unloading children at their various homes along public roads, shall be equipped with a system of signal lamps, identifying color and words.

(d) The motor shall be turned off, keys removed, and brake set any time the driver is not in the driver's seat.

Section 19. Visitation. Parents or persons exercising custodial control of a child shall be permitted to visit the facility at any time during regular hours of operation.

LARRY MICHALCZYK, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 8, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, 2nd floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander/Delano Miller

(1) Type and number of entities affected: 1375

(a) Direct and indirect costs or savings to those affected: Increase in amount paid to state for licensure fees.

1. First year: \$6,875

2. Continuing costs or savings: These fees are assessed on an annual basis.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No increase.

(2) Effects on the promulgating administrative body: Reprinting of regulations.

(a) Direct and indirect costs or savings:

1. First year: \$100 for reprinting regulations.

2. Continuing costs or savings: Normal reproduction of regulations is a part of the ongoing budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No increase.

(3) Assessment of anticipated effect on state and local revenues: Increase of \$6,875 paid to the state.

(4) Assessment of alternative methods; reasons why alternatives were rejected: HB 799 of the 1990 GA directed the Secretary to increase user fees.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This regulation establishes the fees all child day care facilities are required to pay in order to defray some of the costs of licensure.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:005. Nonduplication of payments.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet 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 cabinet, 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 principles relating to nonduplication of payment and treatment of third-party liability for medical services, made available to both the categorically needy and the medically needy.

Section 1. Nonduplication of Payment. Nonduplication of payment as required by 42 CFR 447.15 [45 CFR section 250.30] is assured as follows:

(1) When a recipient makes payment for a covered service, and the [such] payment is accepted by the provider as either partial payment or payment in full for that service, no responsibility for reimbursement shall attach to the cabinet and no bill for the same service shall be paid by the cabinet.

(2) When the cabinet makes payment for a covered service and the provider accepts the payment made by the cabinet in accordance with the cabinet's fee structure, the amounts paid shall be considered payment in full; and no bill for the same service shall be tendered to the recipient, or payment for the same service accepted from the recipient.

Section 2. Third-party Liability. The requirement contained in 42 CFR Part 433, Subpart D [45 CFR section 250.31] that any third-party liability be considered as a resource is met as follows:

(1) When payment for a covered service is due and payable from a third-party source such as Medicare, an insurance plan, or some other third-party with a legal obligation to pay, the amount payable by the cabinet shall be reduced by the amount of the third-party obligation.

(2) Notwithstanding the provisions of subsection (1) of this section, the cabinet shall, in accordance with the provisions of 42 CFR 431.625 [45 CFR section 249.10], make no payment on behalf of any person of an amount payable under Title XVIII, Part B, Supplementary

Medical Insurance (SMI), whether or not the [such] SMI eligible recipient has enrolled in and paid the premium for participation in the [such] insurance plan.

ROY BUTLER, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 2, 1990

FILED WITH LRC: June 7, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, Second Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 18, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All Medicaid providers.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:040. Payments for vision care services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet 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 cabinet, 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 cabinet for vision care services.

Section 1. Definitions. For purposes of determination of payment the following definitions shall be applicable:

(1) "Usual and customary charge" means the uniform amount the individual optometrist or ophthalmic dispenser charges in the majority of cases for a specific covered procedure or service.

(2) "Allowable charges" are those charges computed on the basis of the provider's past charge history, determined on a statewide basis, and which do not exceed:

(a) The median charge for the service; or

(b) The 75th percentile (or 50th percentile for newly participating providers) charge for the service; or

(c) The Title XVIII-B (Medicare) prevailing charge for the service, determined on a statewide basis.

(3) The "median charge" is the arithmetic median of all billed charges for a given individual procedure billed by a given optometrist in a calendar year.

(4) The "75th percentile" or "50th percentile" is the charge that is equal to or greater than seventy-five (75) or fifty (50) percent of all charges, respectively, computed on the basis of all submitted charges for each procedure.

Section 2. Allowable Charge Determinations.

(1) Except as provided for optometrists in subsection (2) of this section, reimbursement shall be made to optometrists and ophthalmic dispensers on the basis of usual, customary and allowable charges, except that reimbursement for materials is at the laboratory cost of the materials not to exceed upper limits as set by the cabinet.

(2) Effective with regard to services provided on and after December 1, 1989, payments for optometrists shall take into consideration the following: for new procedures being added, where there is no allowable charge determined in accordance with Section 1 of this regulation, the Department for Medicaid Services will set upper limits at the 50th percentile using physician usual and customary charge histories for those procedures having physician charge histories, and for other procedures with no physician charge histories will set fixed fees; payment will not exceed the lesser of the upper limit, fixed fee or the provider's usual and customary actual billed charge as applicable.

Section 3. Maximum Reimbursement for Covered Procedures and Materials for Optometrists.

(1) Reimbursement for covered services, except materials, is limited to the lowest of the following:

(a) The actual charge for the service rendered as submitted on the billing statement; or

(b) The allowable charge, as defined in Section 1 of this regulation; or

(c) The fixed fee as specified in Section 2(2) of this regulation, as appropriate.

(2) Reimbursement for materials (eyeglasses or parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the cabinet. A laboratory invoice, or proof of actual acquisition cost of materials, shall be maintained in the recipients's medical records for postpayment review [accompany the billing form].

Section 4. Maximum Reimbursement for Covered Procedures and Materials for Ophthalmic Dispensers. (1) Payment for covered services (a dispensing service fee or a repair service fee) rendered by licensed ophthalmic dispensers to eligible recipients is limited to the lowest of the following:

(a) The actual charge for the service rendered as submitted on the billing statement; or

(b) The allowable charge, as defined in Section 1 of this regulation.

(2) Reimbursement for materials (eyeglasses or parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the cabinet. A laboratory invoice, or proof of actual acquisition cost of materials, shall be maintained in the recipients's medical records for postpayment review [accompany the billing form].

Section 5. Reimbursement for other Supplies and Materials. Other supplies and materials such as cleaning fluid, cleaning cloth, carrying cases, etc., which are not eyeglasses or replacement/repair parts for eyeglasses, are considered to be provided in conjunction with and paid for as a part of the vision services rendered, and additional charges may not be made to the cabinet or the recipient for these items.

Section 6. Effect of Third Party Liability. When payment for a covered service is due and payable from a third party source, such as private insurance, or some other third party with a legal obligation to pay, the amount payable by the cabinet shall be reduced by the amount of the third party payment.

Section 7. Limitations. (1) Program reimbursement for eyeglasses shall be inclusive. The cost of both laboratory materials and dispensing fees shall be billed to either the program or the recipient. If any portion of the amount is billed to or paid by the recipient, no responsibility for reimbursement shall attach to the cabinet and no bill for the service shall be paid by the cabinet. This limitation shall not, however, preclude the issuance of billings for the purpose of establishing the liability of, or collecting from, liable third parties.

(2) Telephone contacts are excluded from payment.

(3) Contact lenses are excluded from payment.

(4) Safety glasses are excluded from payment, unless the recipient is blind in one (1) eye and safety glasses are prescribed for protection.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 14, 1990

FILED WITH LRC: May 24, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, Second Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 18, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All ophthalmologists and optometrists participating in Medicaid.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Proposed Amendment)

907 KAR 1:330. Hospice services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet 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 cabinet, 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 terms and conditions under which the cabinet will provide hospice care to both the categorically and medically needy.

Section 1. Definition of Hospice Care. Hospice care means the care described in Section 1905(o) of the Social Security Act. Summarized, hospice care may be described as a package of palliative and supportive services provided by a hospice program to a terminally ill Medicaid recipient and his family to alleviate the patient's pain and suffering and assist the patient and his family to cope with dying and the circumstances surrounding terminal illness. The hospice package of services is provided in lieu of certain benefits described in Section 1812(d)(2)(A) of the Social Security Act and intermediate care facility services. The patient must voluntarily elect the hospice care. Hospice care may be provided an individual in a skilled nursing or intermediate care facility but in that circumstance coverage does not exist under the program for skilled nursing and intermediate care facility services, i.e., a payment may be made for only the hospice care. Hospice care must be provided by an appropriately licensed, accredited and certified hospice program (as defined in Section 1861(dd)(2) of the Social Security Act) participating in both Medicare and Medicaid.

Section 2. Voluntary Election. Any terminally ill Medicaid recipient may elect hospice coverage (where hospice care is provided by a participating hospice program in his service area) in accordance with procedures and using such forms as may be prescribed by the cabinet. Each recipient will be required to make his voluntary selection in writing, and must present a statement from a physician (or such statement must be available) to show that the recipient's illness is terminal and that death is expected to occur within six (6) months.

Section 3. Duration of Benefits. Effective January 1, 1989, there is no limit on the number of days an individual may participate in the hospice program so long as such days fall within a covered benefit period. Effective June 1, 1990, hospice benefits shall consist of these benefit periods: two (2) ninety (90) day periods, one (1) thirty (30) day period, and additional indefinite periods which last until revocation or termination for other reasons such as ineligibility or death.

Section 4. Concurrent Medicare Coverage. When a Medicaid eligible individual with concurrent

eligibility for hospice services under Medicare wishes to enroll in a hospice program under Medicaid he shall be required as a prerequisite for Medicaid hospice enrollment to enroll in the Medicare hospice program[, i.e., concurrent enrollment is required to the extent there is concurrent eligibility for hospice services in both programs].

Section 5. Disenrollment, Reenrollment, and Transfers. A recipient may disenroll from a hospice program at any time. A recipient who disenrolls during any benefit period loses the unused portion of that benefit period but may still be eligible for the remaining benefit period(s), if any. He may reenroll at such time as he may desire (subject only to the usual participation requirements). If an enrolled individual revokes his Medicare enrollment, the Medicaid enrollment shall be revoked simultaneously to the extent possible. If a county is served by two (2) or more hospice programs, or if the recipient moves his county of residence to a county serviced by a different hospice(s), the recipient may transfer between hospice programs.

ROY BUTLER, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: June 3, 1990

FILED WITH LRC: June 7, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, Second Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 18, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All Medicaid recipients receiving hospice services.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES Department for Mental Health and Mental Retardation Services (Proposed Amendment)

908 KAR 1:020. Licensing procedures (NATE).

RELATES TO: KRS 222.210 to 222.310, HB 799 of the 1990 GA, Part 1, G. 56, g. lines 13-17

STATUTORY AUTHORITY: KRS 194.050, 222.230

NECESSITY AND FUNCTION: KRS 194.050 and 222.230 empowers the cabinet to promulgate rules and regulations establishing standards for the licensing and approval of facilities offering alcoholism rehabilitation programs. The purpose of this regulation is to establish standards for determining what types of facilities must have a nonmedical alcohol treatment and education center license to operate and the procedures for obtaining and maintaining such a license.

Section 1. Licensing and Approval Procedures. Applications for licensing, or waivers requesting exemptions from licensure standard(s) shall be obtained from and submitted to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40601.

(1) Application for licensure shall be filed by all agencies operating a nonmedical alcohol treatment and education center in the Commonwealth with the following exceptions:

(a) Group meetings organized among alcoholics, recovering alcoholics or alcohol abusers, families and others, held on a nonresidential basis and without professional staff intervention, for the purpose of discussing problems related to use of alcohol where no fee is involved.

(b) Transportation Cabinet, Alcohol Driver Education, pursuant to: KRS Chapter 189A and 601 KAR 13:050.

(c) Programs conducted in a facility established and maintained by a licensed hospital; nursing homes; and department, agency or institution of the federal government or the Commonwealth.

(d) All chemical dependency treatment services and facilities licensed under 902 KAR 20:160.

(2) The Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation shall conduct all licensure surveys

to determine whether an agency's nonmedical alcohol treatment and education center is in compliance with the applicable licensure standards.

(3) The cabinet shall notify the applicant agency for a nonmedical alcohol treatment and education center license of any pending licensure action taken, and shall provide written reports citing observed deficiencies as they relate to the standards. A copy of this report shall be forwarded to the applicant agency. Upon receipt of this report the applicant agency must submit an acceptable plan of correction for cited deficiencies to the cabinet within ten (10) days.

(4) Licensure is not transferable. Both the license holder and the new operator shall be responsible to notify the cabinet when the agency possessing the nonmedical alcohol treatment and education center license changes ownership or control or undergoes a major change in its capacity or in the category(ies) of programs offered, with disclosure of all factors involved in the change. If it is the decision of the cabinet that a reapplication is in order the applicant shall apply within twenty (20) days of notification by the cabinet. Failure to comply with these provisions shall result in loss of license.

(5) The cabinet shall be notified in writing prior to the merger of a the agency possessing a nonmedical alcohol treatment and education center license with another agency and an immediate request for licensure be filed with the cabinet. The merged agency's nonmedical alcohol program(s) shall be surveyed within one (1) year of such notification. For the purposes of licensure, a merged agency shall be a legal entity with a single governing body, a single administration, a single staff, and, where applicable, a single set of bylaws, rules and regulations.

(6) The cabinet shall publish on an annual basis a list of licensed nonmedical alcohol treatment and education centers identifying types of programs and their locations and shall make it available to the public upon request.

(7) Licenses granted to agencies deemed responsible and suitable to carry out nonmedical alcohol treatment and education center programs shall meet applicable standards and requirements for a period not exceeding one (1) year and renewable for a like period, and subject to revocation for cause.

(8)(a) A nonmedical alcohol treatment and education center license shall be issued by the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation to an agency for each facility operated by the agency that meets the required standards for operating a detoxification, residential treatment, residential transitional treatment, outpatient, day/night intensive outpatient treatment or education program. In the event that an agency operates an education program at multiple facilities only a single nonmedical alcohol treatment and education center license shall be issued to the applicant agency for the education program.

(b) A nonmedical alcohol treatment and education center license shall identify the location of the facility being licensed, the year of issuance of the license, and whether a detoxification, residential treatment, residential transitional treatment, outpatient

or day/night intensive treatment program is being licensed. The agency shall receive a certificate of licensure indicating its approved status.

(c) A nonmedical alcohol treatment and education center license issued for an education program shall identify the location of the facility or facilities being licensed and the year of issuance of the license. The agency that operates the facility or facilities being licensed shall receive a certificate of licensure indicating its approved status.

(d) An agency may be provided additional certificates of licensure for its nonmedical alcohol program(s) upon payment of the cost of reproduction. The certificate and all copies shall remain the property of the cabinet and shall be returned to the cabinet if the agency is issued a new certificate of licensure reflecting a change in name or programs for which it is licensed, or if the license is revoked for any cause.

(e) The Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation shall be notified in writing when there is a change in location for every facility operated by an agency licensed as a nonmedical alcohol treatment and education center.

(9) Hearing procedures involving licenses shall be conducted in accordance with KRS 222.230(6).

(10) Applications for a permit to operate a nonmedical alcohol treatment and education center shall be accompanied by a fee of \$155 [130] and shall excepting conditional permits, be renewable annually upon expiration and reapplication when accompanied by a renewal fee of eighty (80) [sixty-five (65)] dollars. All licensure fees are to be forwarded to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

(11) Exception. An agency possessing a nonmedical alcohol treatment and education center license shall be exempt from paying licensure fees set forth in, subsection (10) of this section, when the specific nonmedical alcohol program such as detoxification, residential treatment, residential transitional treatment, outpatient, day/night intensive outpatient treatment and education has already paid licensure fees as a drug abuse treatment and education (DATE) center program in compliance with 908 KAR 1:160.

DENNIS BOYD, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 21, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, 2nd Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander/ Delano Miller

(1) Type and number of entities affected: 60

(a) Direct and indirect costs or savings to those affected: Increase in amount paid to state for licensure.

1. First year: \$900.

2. Continuing costs or savings: These fees are assessed on an annual basis.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None noted.

(b) Reporting and paperwork requirements: No increase.

(2) Effects on the promulgating administrative body: Reprinting of regulation.

(a) Direct and indirect costs or savings:

1. First year: \$100 for reprinting regulations.

2. Continuing costs or savings: Normal reproduction of regulations is a part of the ongoing budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No increase.

(3) Assessment of anticipated effect on state and local revenues: Increase of \$900 paid to the state.

(4) Assessment of alternative methods; reasons why alternatives were rejected: HB 799 of the '90 GA directed the secretary to increase user fees.

(5) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. These are fees that all licensed nonmedical alcohol treatment and education centers are required to pay to defray some of the costs associated with licensure.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and
Mental Retardation Services
(Proposed Amendment)

908 KAR 1:160. Licensing procedures (DATE).

RELATES TO: KRS 210.610 to 210.680, 210.990(3), HB 799 of the 1990 GA, Part I, G, 56, g, lines 13-17 [p. 76, 77, Acts 1988, c. 437, Part II, H., 42., g.]

STATUTORY AUTHORITY: KRS 194.050, 210.620

NECESSITY AND FUNCTION: KRS 194.050 and 210.620 empowers the cabinet to establish guidelines and provide for the systematic evaluation of the effectiveness of drug abuse treatment and education (DATE) centers. The purpose of this regulation is to establish standards for determining what types of facilities must have a drug abuse treatment and education (DATE) center license to operate and the procedures for obtaining and maintaining such a license.

Section 1. Licensing and Approval Procedures. Applications for licensing, or waivers requesting exemptions from licensure standard(s) shall be obtained from and submitted to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40601.

(1) Application for licensure shall be filed by all agencies operating a drug abuse treatment and education (DATE) center in the Commonwealth with the following exceptions:

(a) Group meetings organized among drug abusers, recovering addicts or drug abusers, families and others, held on a nonresidential basis and without professional staff intervention, for the purpose of discussing problems related to use of drugs where no fee is involved.

(b) Transportation Cabinet, Alcohol Driver Education, pursuant to: KRS Chapter 189A and 601 KAR 13:050.

(c) Programs conducted in a facility established and maintained by a licensed hospital; nursing homes; and department, agency or institution of the federal government or the Commonwealth.

(d) All chemical dependency treatment services and facilities licensed under 902 KAR 20:160.

(2) The Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation shall conduct all licensure surveys to determine whether an agency's drug abuse treatment and education (DATE) center is in compliance with the applicable licensure standards.

(3) The cabinet shall notify the applicant agency for a drug abuse treatment and education (DATE) center license of any pending licensure action taken, and shall provide written reports citing observed deficiencies as they relate to the standards. A copy of this report shall be forwarded to the applicant agency. Upon receipt of this report the applicant agency must submit an acceptable plan of correction for cited deficiencies to the cabinet within ten (10) days.

(4) Licensure is not transferable. Both the license holder and the new operator shall be responsible to notify the cabinet when the agency possessing the drug abuse treatment and education (DATE) center license changes ownership or control or undergoes a major change in its capacity or in the category(ies) of programs offered, with disclosure of all factors involved in the change. If it is the decision of the cabinet that a reapplication is in order the applicant shall apply within twenty (20) days of notification by the cabinet. Failure to comply with these provisions shall result in loss of license.

(5) The cabinet shall be notified in writing prior to the merger of the agency possessing a drug abuse treatment and education (DATE) center license with another agency and an immediate request for licensure be filed with the cabinet. The merged agency's drug abuse treatment and education (DATE) center shall be surveyed within one (1) year of such notification. For the purposes of licensure, a merged agency shall be a legal entity with a single governing body, a single administration, a single staff, and, where applicable, a single set of bylaws, rules and regulations.

(6) The cabinet shall publish on an annual basis a list of licensed drug abuse treatment and education (DATE) centers identifying types

of programs and their locations and shall make it available to the public upon request.

(7) Licenses granted to agencies deemed responsible and suitable to carry out drug abuse treatment and education (DATE) center programs shall meet applicable standards and requirements for a period not exceeding one (1) year and renewable for a like period, and subject to revocation for cause.

(8)(a) A drug abuse treatment and education (DATE) center license shall be issued by the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation to an agency for each facility operated by the agency that meets the required standards for operating a residential rehabilitation center, nonresidential day care center, educational information center and communication center. In the event that an agency operates an educational information center or communication center at multiple facilities only a single educational information center or communication center license shall be issued to the applicant agency.

(b) A residential rehabilitation center license shall identify the location of the facility, the year of issuance of the license and what type of residential program is being licensed such as: detoxification, residential treatment or residential transitional treatment. The agency that operates the facility being licensed shall receive a certificate of licensure indicating its approved status.

(c) A nonresidential day care center license shall identify the location of the facility, the year of issuance of the license and what type of nonresidential program is being licensed such as: outpatient treatment or day/night intensive outpatient treatment. The agency that operates the facility being licensed shall receive a certificate of licensure indicating its approved status.

(d) An educational information center or communication center license shall identify the location of the facility or facilities providing that type of program and the year of issuance of the license. The agency that operates the facility or facilities being licensed shall receive a certificate of licensure indicating its approved status.

(e) An agency may be provided additional certificates of licensure for its drug abuse treatment and education (DATE) center programs upon payment of the cost of reproduction. The certificate and all copies shall remain the property of the cabinet and shall be returned to the cabinet if the agency is issued a new certificate of licensure reflecting a change in name or programs for which it is licensed, or if the license is revoked for any cause.

(f) The Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation shall be notified in writing when there is a change in location for every facility operated by an agency licensed as a drug abuse treatment and education (DATE) center.

(9) Hearing procedures involving licenses shall be conducted in accordance with KRS 222.230(6).

(10) Licensure fees per drug abuse treatment and education (DATE) center shall be paid in accordance with KRS 210.620, Section 4. This statute requires that applications for a permit to operate a drug abuse treatment and education (DATE) center shall be accompanied by a fee of

\$155 [130] and shall, excepting conditional permits, be renewable upon expiration and reapplication when accompanied by a renewal fee of eighty (80) [sixty-five (65)] dollars. All licensure fees are to be forwarded to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

DENNIS BOYD, Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 21, 1990

FILED WITH LRC: June 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the Department for Employment Services Conference Room, 2nd Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander or Delano Miller

(1) Type and number of entities affected: 60

(a) Direct and indirect costs or savings to those affected: Increase in amount paid to state for licensure.

1. First year: \$900.

2. Continuing costs or savings: These fees are assessed on an annual basis.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No increase.

(2) Effects on the promulgating administrative body: Reprinting of regulation.

(a) Direct and indirect costs or savings:

1. First year: \$100 for reprinting regulations.

2. Continuing costs or savings: Normal reproduction of regulations is a part of the ongoing budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No increase.

(3) Assessment of anticipated effect on state and local revenues: Increase of \$900 paid to the state.

(4) Assessment of alternative methods; reasons why alternatives were rejected: HB 799 of the '90 GA directed the secretary to increase user fees.

(5) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. These are fees that all licensed drug abuse treatment and education centers are required to pay to defray some of the costs associated with licensure.

PROPOSED REGULATIONS RECEIVED THROUGH JUNE 15, 1990 AS OF 12 NOON

SECRETARY OF STATE

30 KAR 2:010. Certification of vacancy in nominations.

RELATES TO: KRS 118.105

STATUTORY AUTHORITY: KRS 118.105

NECESSITY AND FUNCTION: Senate Bill 223, enacted during the 1990 Regular Session of the General Assembly, amended KRS 118.105(1), (3) and (4), governing certification by the Secretary of State that a vacancy exists in a nomination governed by KRS 118.105. This administrative regulation is required to establish the procedure for the determination and certification of a vacancy under the provisions of KRS 118.105.

Section 1. Notification of Vacancy. (1) The Secretary of State shall be notified of the vacancy in a nomination governed by KRS 118.105.

(2) The notification shall:

(a) Be written;

(b) Be dated;

(c) State the reason for the vacancy;

(d) Contain documentation to substantiate the reason for the vacancy;

(e) Be signed by the person making the notification; and

(f) Be notarized.

(3) The notification may be made by:

(a) The candidate;

(b) The governing authority of a party;

(c) A registered voter; or

(d) An opposing candidate.

(4) The notification shall be delivered to the Secretary of State by:

(a) Certified mail; or

(b) The person making the notification.

Section 2. Documentation to Substantiate Reason for Vacancy. (1) Documentation to substantiate the reason for a vacancy shall be filed with the notification by the candidate or governing authority of the party as provided by this section. For:

(a) Death of a candidate: a certificate of death or other evidence satisfactory to the Secretary of State;

(b) Disqualification to hold the office sought: evidence of legal disqualification; and

(c) Severe disabling condition: medical evidence of the condition.

(2) Medical evidence of a severe disabling condition shall consist of medical evidence provided by:

(a) A licensed and practicing:

1. Physician;

2. Osteopath;

3. Psychologist;

4. Psychiatrist; or

(b) Other medical professional qualified to make a determination that the candidate is suffering from a severe disabling condition.

(3) The documentation filed to substantiate the reason for vacancy may be challenged, in writing, by:

(a) The governing authority of an opposing party;

(b) An opposing candidate; or

(c) A registered voter.

(4)(a) The Secretary of State shall review all

documentation relating to the reason for a vacancy.

(b) If he determines that additional documentation is required, he shall request a review:

1. Of the medical evidence of a severe disabling condition filed with the notification;

2. By a medical professional specified in subsection (2) of this section.

Section 3. The Secretary of State shall not certify that a vacancy exists if he determines that the documentation filed to substantiate the reason for the vacancy does not establish that a vacancy exists because of:

(1) Death;

(2) Disqualification to hold the office sought; or

(3) A severe disabling condition which arose after the nomination.

BREMER EHRLER, Secretary of State

APPROVED BY AGENCY: June 11, 1990

FILED WITH LRC: June 13, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on July 31, 1990, at 10 a.m. in Room 107 of the Capitol Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: George Russell, Office of Secretary of State, State Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: George Russell

(1) Type and number of entities affected: Unopposed candidates, and candidates nominated by a primary who wish to withdraw before ballots are printed for a regular election because of: 1. Death; 2. Disqualification to hold the office sought; or 3. Severe disabling condition that arose after the nomination.

Persons constituting the governing authority of the party whose candidate wishes to withdraw for the reasons specified above. 1. Opposing candidates; 2. Persons constituting the governing authority of the opposing party; 3. The Secretary of State and personnel of his office; or 4. County clerks.

The specific number of persons affected cannot be determined until a vacancy occurs; and until the Secretary of State is able to determine the personnel requirements.

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs cannot be determined until a vacancy occurs, and until the Secretary of State is able to determine the personnel requirements and additional factors. Factors affecting costs to the governing authority of political parties and to candidates who wish to withdraw are: Costs of medical reports and documentation required by this administrative regulation.

(b) Reporting and paperwork requirements: Additional reporting and paperwork requirements

are medical reports and other documentation required by this administrative regulation.

(2) Effects on the promulgating administrative body: The Office of the Secretary of State will have the additional duties of receiving, filing, and reviewing the documentation required by this administrative regulation.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: Costs or savings, and additional factors related to costs, cannot be determined until a candidate wishes to withdraw.

(b) Reporting and paperwork requirements: Receipt, filing, and review of documentation required by this administrative regulation; creation and distribution of determinations required of the Secretary of State by this administrative regulation.

(3) Assessment of anticipated effect on state and local revenues: There are no effects on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendments to KRS 118.105 made by SB 223 are mandatory. Alternative methods are not permitted.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: No

TIERING: Was tiering applied? No. Tiering is inapplicable because KRS 118.105 prescribes a single standard to be applied to all affected persons and entities. There is only one class of persons or entities affected.

PERSONNEL BOARD

101 KAR 1:400. Promotion.

RELATES TO: KRS 18A.075, 18A.0751, 18A.115

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.075

NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 directs that comprehensive administrative regulations be promulgated by the Personnel Board for the classified service governing promotion. KRS 18A.115 relates to promotion of career employees.

Section 1. Promotion. (1) Agencies shall give appropriate consideration to an applicant's qualifications, record of performance, conduct and seniority in the selection of an employee for a promotion.

(2) Promotions may be interagency or intra-agency.

(3) Any employee in the classified service, other than a career employee, may be promoted to a position in the unclassified service, but shall not have reversion rights to any position in the classified service. Any employee who was promoted or otherwise changed, with no break in service, from a position in the classified service to a position in the unclassified service prior to July 15, 1986, shall retain

reversion rights as existed at the time of promotion or other action.

JAMES M. SHAKE, Chairman

APPROVED BY AGENCY: June 8, 1990

FILED WITH LRC: June 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 1990, at 9:30 a.m. in Room 360, Capitol Annex Building. Individuals interested in attending this hearing shall notify this agency in writing by July 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Commonwealth of Kentucky, Personnel Board, Room 372, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Arthur Hatterick, Jr.

(1) Type and number of entities affected: All state agencies with classified employees.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This regulation must apply to all classified employees and all state agencies with classified employees. Further tiering has not been utilized in the administrative regulations of the Personnel Board in that the board is a quasi-judicial body and as such has no latitude not granted by statute to utilize tiering methods.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The rules concerning standards for the establishment and maintenance of a merit system for state governmental units receiving federal grants in aid were issued by the Office of Personnel Management and became effective on February 9, 1979. These rules were revised April 4, 1983, and are now codified as 5 CFR Part 900, Subpart F, Sections 900.601-900.606 (48 FR 9209, March 4, 1983).

2. State compliance standards. The purpose of these regulations is to implement provisions of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to federally required merit personnel systems in state agencies. Certain federal grant programs require, as a condition of eligibility, that state agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific federal grant statutes and in other cases are required by regulations of the federal grantor agencies.

3. Minimum or uniform standards contained in the federal mandate. The standards required for a merit system of personnel administration include such merit principles as:

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.

(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The provisions of the federal merit standards recognizes fully the rights, powers and responsibility of state government and encourages innovation and allows for diversity in the design, execution and management of the system of personnel management, as provided by the Intergovernmental Personnel Act of 1970 if standards have certain specific requirements and options. The requirements and options have been exercised by the General Assembly in the enactment of KRS Chapter 18A and its delegation of duties and responsibilities to the State

Personnel Board and the Department of Personnel.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This regulation to our knowledge is not stricter than the federal mandate.

GENERAL GOVERNMENT CABINET
Department of Agriculture

302 KAR 1:055. Milk referendum.

RELATES TO: House Bill 503

STATUTORY AUTHORITY: House Bill 503

NECESSITY AND FUNCTION: House Bill 503 of the 1990 Regular Session authorizes the commissioner to establish and determine the rules and regulations to conduct a referendum among producers of milk on a commercial basis for the purpose of promoting and stimulating by educational and applied research programs, the increased production of milk in this state.

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

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

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

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

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

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

(6) "County referendum agent" means an appointed person by the Commissioner of Agriculture in a county where the milk producer referendum is held, as his agent for the conduct of the referendum.

(7) "Kentucky Milk Producers Association" means an existing association, representative of the producers of milk on a commercial basis in this state.

(8) "Association" means any commission, council, board or other body.

Section 2. Counties in Which Referendum Will Be Conducted. The milk producers referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who May Vote. (1) Each person engaged in the production of milk on a commercial basis, including owners of farms on which milk is produced on a commercial basis, tenants and sharecroppers sharing in the proceeds of the milk production shall be eligible to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.

(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of milk is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which the milk was produced. No person who certifies to the county referendum agent that he is a producer of milk shall be refused a ballot, but the person may be required to

furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before the ballot is counted in the referendum.

Section 4. Voting Places. The commissioner shall establish a voting place in each county within the state where producers of milk reside. The voting place shall be in the county extension service office in each county where the referendum is conducted. The referendum agent shall provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area while voting. One (1) or more county referendum agents may be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against the referendum will not be permitted in the county extension service office during voting hours.

Section 5. Voting Hours. The voting places will be open from 9 a.m. to 3 p.m. local time and eligible voters will be permitted to vote only during that period of time or by absentee ballot as set forth in Section 6 of this regulation. Voters will be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located.

Section 6. Absentee Voting. Voting by absentee ballot will be permissible; provided, that a request for an absentee ballot is made in writing to the commissioner at least ten (10) days in advance of the referendum voting date. The absentee ballot must be signed and returned to the commissioner on or before the referendum voting date.

Section 7. Referendum Voting Date. The milk producers referendum voting date will be set by the commissioner after certification of the referendum. The date determined for the referendum, the hours and polling places for voting, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected, and the general purposes to which the assessment shall be applied, 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 date of the referendum, and direct written notice of the referendum date will be given to each county referendum agent.

Section 8. Supervision of Referendum and Duties of County Referendum Agent. The commissioner shall provide the county referendum agent with a copy of these rules and regulations. Each county referendum agent shall have in his possession and under his control a ballot box and the approved ballot forms, indelible marking pens and other supplies sufficient to operate each voting place as established in Section 4 of this regulation. Each prospective voter shall identify himself to the county referendum agent; and the voter will be required to sign a registration book giving his name, complete mailing address and telephone number. The registration book shall be maintained by the county referendum agent. Upon

signing the registration book, each prospective voter will receive an approved ballot form from the county referendum agent. The ballot form, after it has been completed by the voter, shall be placed in the ballot box.

Section 9. Approved Ballot Forms. The commissioner shall furnish each county referendum agent in advance with official ballot forms. The official ballot forms shall state the question to be presented to the voters. The question presented shall show that the milk producer is voting on whether or not the milk producer is in favor of the collection by the Kentucky Milk Producers Association of an assessment for the purpose of financing a promotional and educational program to stimulate applied research and increase the production of milk. The assessment collected by the purchasers of milk will be sent to the Kentucky Milk Producers Association to be used as provided in House Bill 503. The assessment to be deducted from the payment for milk delivered after October 1, 1990, is 0.15 of one (1) percent of the value of the milk sold by the producer.

Section 10. Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to ensure that the information on the ballots is held in confidence. The county referendum agent shall mail to the Department of Agriculture, all marked ballots and registration books used for the referendum. The ballots and registration books shall be mailed in a properly secured manila envelope or folder.

Section 11. Confidential Information. All ballots cast, the identity of any person who voted, or the manner in which the person voted, and all information furnished to, compiled by or in the possession of the commissioner, the county 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 twelve (12) months.

Section 12. Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's office to be used for counting the votes cast and the referendum. The vote count shall be conducted by employees of the department, but the Kentucky Milk Producers Association, and any organization actively engaged in the production of milk in Kentucky, may each have one (1) representative present during the counting of the votes. The organization shall establish, to the satisfaction of the commissioner, that its desire to observe the counting of the ballots is for a legitimate purpose.

Section 13. Announcement of 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.

Section 14. Referendum Costs. All costs and expenses incurred by the commissioner in connection with the referendum shall be borne by the association conducting the referendum. The commissioner shall notify the association of all documented costs and expenses incurred in conducting the referendum including mailing and shipping costs, within ninety (90) days of the date the results the referendum are announced by the commissioner.

Section 15. Affirmative Vote. An assessment approved by an affirmative vote as defined by Section 14 of the Act, shall be collected and remitted to the association on or before the final day of the month following the end of the month in which the commodity is sold to the purchaser in the manner determined and announced by the association conducting the referendum.

Section 16. Subsequent Referendum. Any subsequent referendum among the producers which provides that the eligible producers may vote with regard to whether the milk producer assessment approved by affirmative vote shall be continued or terminated shall be conducted in accord with the provisions of this regulation. Except that the official ballots shall show that the question to be presented is whether the assessment of 0.15 of one (1) percent of the value of milk sold by the producer in the state shall be terminated after the last day of the month in which the referendum is held.

WARD "BUTCH" BURNETTE, Commissioner

APPROVED BY AGENCY: May 29, 1990

FILED WITH LRC: May 30, 1990 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 26, 1990 at 1 p.m. at the Department of Agriculture Conference Room, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 20, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: J. Michael Noyes, General Counsel, Department of Agriculture, Capital Plaza Tower, 7th Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Millie Mattingly

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: This regulation is promulgated as a requirement of House Bill 503 of the 1990 Regular Session to provide the regulations governing a referendum to be conducted by the Kentucky Milk Producers Association pursuant to the Act. The Commissioner of Agriculture is

required to provide rules governing the conduct and management of the referendum. There will be no direct or indirect expenses incurred by the department as any expenses associated with conducting, managing or supervising the referendum. It must be reimbursed by the Kentucky Milk Producers Association as required by the Act. A separate regulation is required to establish and provide notice of the rules governing the referendum.

2. Continuing costs or savings: Pursuant to House Bill 503, no continuing costs or savings will be incurred.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no factors increasing or decreasing costs and the regulation has no effect on competition.

(b) Reporting and paperwork requirements: Any paperwork or reporting requirements in conducting, supervising and managing the referendum are specific requirements set out by House Bill 503.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: See discussion above.

2. Continuing costs or savings: See discussion above.

3. Additional factors increasing or decreasing costs: See discussion above.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This regulation will have no direct impact upon state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method exists. This regulation is a specific requirement of House Bill 503.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The statutes governing the referendum require uniformity and, therefore, prohibit tiering.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Kentucky Milk Producers Association is authorized to conduct a producers referendum pursuant to House Bill 503. Pursuant to House Bill 503, the commissioner is required to promulgate rules and regulations governing the hours, voting places and area within which the referendum will be conducted. This regulation is promulgated pursuant to the statutory requirement set out in KRS Chapter 247 and has no impact upon the federal mandate.

2. State compliance standards. No. This regulation is promulgated in direct compliance with a Kentucky statute. There is no applicable federal jurisdiction or standard.

3. Minimum or uniform standards contained in the federal mandate. Not applicable.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

5. Justification for the imposition of the

stricter standard, or additional or different responsibilities or requirements.

**GENERAL GOVERNMENT CABINET
Department of Agriculture**

302 KAR 1:070. Corn referendum.

RELATES TO: House Bill 584

STATUTORY AUTHORITY: House Bill 584

NECESSITY AND FUNCTION: House Bill 584 of the 1990 Regular Session authorizes the commissioner to establish and determine the rules and regulations to conduct a referendum among producers of corn for the purpose of promoting and stimulating by utilization research, market maintenance and expansion and education, the existing use and sale, domestic and foreign of corn and corn products.

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

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

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

(3) "Corn" means all kinds and varieties of corn except sweet corn and ornamental corns;

(4) "Producer" means every person who produces and markets corn;

(5) "New producer" means a producer who was not engaged in the business of producing corn at the time the referendum was conducted in accordance with the provisions of this Act;

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

(7) "Marketing year" means the twelve (12) month period from September 1 to August 31 of the following year;

(8) "Market" means any quantities that are sold, bartered or for which other items of value are exchanged;

(9) "Referendum agent" means an employee of the State Department of Agriculture under the direction of the Commissioner of Agriculture;

(10) "County referendum agent" means an appointed person by the Commissioner of Agriculture in a county where the corn referendum is held, as his agent for the conduct of the referendum;

(11) "Kentucky Corn Growers Association" means an existing association, representative of the corn producers of Kentucky;

(12) "Marketed" means any quantity of corn that is sold, bartered, or for which other items of value are exchanged in the state;

(13) "Bushel" means fifty-six (56) pounds of corn by weight or as otherwise defined by the United States Department of Agriculture.

Section 2. State-wide Referendum. The corn producers referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who May Vote. (1) Each person engaged in the production of corn on a commercial basis, including owners of farms on which corn is produced, and tenants and sharecroppers sharing in the proceeds of corn shall be eligible to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.

(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of corn is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which corn was produced. No person who certifies to the county referendum agent that he is a producer of corn shall be refused a ballot, but the person may be required to furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before the ballot is counted.

Section 4. Voting Place. The commissioner shall establish a voting place in each county within the state where producers of corn reside. The voting place shall be in the county extension service office in each county where the referendum is conducted. The referendum agent shall provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area at one time. One (1) or more county referendum agents shall be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against the referendum will not be permitted in the county extension service office during voting hours.

Section 5. Hours of Voting. The voting places will be open from 9 a.m. to 3 p.m. local time and eligible voters will be permitted to vote only during that period of time or by absentee ballot as set forth in Section 6 of this regulation. Voters will be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located.

Section 6. Absentee Voting. Voting by absentee ballot will be permissible; provided, that a request for an absentee ballot is made in writing to the commissioner at least ten (10) days in advance of the referendum voting date. The absentee ballot must be signed and returned to the commissioner on or before the referendum voting date.

Section 7. Referendum Voting Date. The corn producers referendum voting date will be set by the commissioner after certification of the referendum. The date determined for the referendum, hours and polling places, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment will be collected and the general purposes to which the assessment shall be applied 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 date of the referendum, and direct written notice of the referendum date shall be given to each county referendum agent.

Section 8. Supervision of Referendums and Duties of County Referendum Agent. The commissioner shall provide the county referendum agent with a copy of these rules and regulations. Each county referendum agent shall have in his possession and under his control a ballot box and the appropriate ballot forms,

indelible marking pens, and other supplies sufficient to operate each voting place as established in Section 4 of this regulation. Each prospective voter shall identify himself to the county referendum agent; and the voter will be required to sign a registration book giving his name, complete mailing address, and telephone number. The registration book shall be maintained by the county referendum agent. Upon signing the registration book, each prospective voter will receive an approved ballot form from the county referendum agent. The official ballot, after it has been completed by the voter, shall be placed in the ballot box.

Section 9. Approved Ballot Forms. The commissioner shall furnish each county referendum agent in advance with official ballot forms. The official ballot forms shall state the question to be presented to the voters. The question presented shall show that the corn producer is voting on whether or not the corn producer is in favor of the collection by the Kentucky Corn Growers Association of an assessment for the purpose of financing a promotional program to stimulate by utilization research, marketing maintenance and expansion, and education, the increase use and sale, domestic and foreign of corn and corn products and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn and corn products to market. The assessment collected by the purchasers of corn or corn products will be sent to the Kentucky Corn Growers Association to be used as provided in House Bill 584. The assessment to be deducted from the payment for corn delivered after October 1, 1990, in the following amount for a marketing year which is September 1 to August 31 of the following year; one-quarter (0.25) percent per bushel.

Section 10. Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to ensure that the information on the ballots is held in confidence. The county referendum agent shall mail to the Department of Agriculture, all marked ballots and registration books used for the referendum. The ballots and registration books shall be mailed in a properly secured manila envelope or folder.

Section 11. Confidential Information. All ballots cast, the identity of the 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, the county 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 twelve (12) months.

Section 12. Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's office to be used for counting the votes cast in the referendum. The vote count shall be conducted by employees of the department, but the Kentucky Corn Growers Association, and any

organization actively engaged in the production of corn or corn products in Kentucky, may each have one (1) representative present during the counting of the votes. The organization shall establish, to the satisfaction of the commissioner, that its desire to observe the counting of the ballots is for a legitimate purpose.

Section 13. Announcement of 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.

Section 14. Referendum Costs. All costs and expenses incurred by the commissioner in connection with the referendum shall be borne by the association conducting the referendum. The commissioner shall notify the association of all documented costs and expenses incurred in conducting the referendum including mailing and shipping costs, within ninety (90) days of the date the results of the referendum are announced by the commissioner.

Section 15. Affirmative Vote. An assessment approved by an affirmative vote as defined by Section 13 of the Act, shall be collected and remitted on or before the fifteenth day of the month following the end of the month in which the corn is sold to the purchaser in the manner determined and announced by the association conducting the referendum.

Section 16. Subsequent Referendum. Any subsequent referendum among the producers which provides that the eligible producers may vote with regard to whether the corn producer assessment approved by affirmative vote should be continued or terminated shall be conducted in accord with the provisions of this regulation. Except that the official ballots shall show that the question to be presented to the voters is whether or not the one-fourth (1/4) of one (1) percent assessment on the gross marketed price per bushel on the corn marketed in the state shall continue after the market year in which the referendum is conducted.

WARD "BUTCH" BURNETTE, Commissioner

APPROVED BY AGENCY: May 29, 1990

FILED WITH LRC: May 30, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 26, 1990 at 9 a.m. at the Department of Agriculture Conference Room, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 21, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written

notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: J. Michael Noyes, General Counsel, Department of Agriculture, Capital Plaza Tower, 7th Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cecil Goodlett

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: This regulation is promulgated as a requirement of HB 584 of the 1990 Regular Session to provide the regulations governing a referendum to be conducted by the Kentucky Corn Growers Association pursuant to the Act. The Commissioner of Agriculture is required to provide rules governing and the conduct and management of the referendum. There will be no direct or indirect expenses incurred by the department as any expense associated with conducting, managing or supervising the referendum. It must be reimbursed by the Kentucky Corn Growers Association as required by the Act. A separate regulation is required to establish and provide notice of the rules governing the referendum.

2. Continuing costs or savings: Pursuant to HB 584, no continuing costs or savings will be incurred.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no factors increasing or decreasing costs and the regulation has no effect on competition.

(b) Reporting and paperwork requirements: Any paperwork or reporting requirements in conducting, supervising and managing the referendum are specific requirements set out by HB 584.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: See discussion above.

2. Continuing costs or savings: See discussion above.

3. Additional factors increasing or decreasing costs: See discussion above.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This regulation will have no direct impact upon state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method exists. This regulation is a specific requirement of HB 584.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The statutes governing the referendum require uniformity and, therefore, prohibit tiering.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Kentucky Corn Growers Association is authorized to conduct a producers

referendum pursuant to HB 584, the commissioner is required to promulgate rules and regulations governing the hours, voting places and area within which the referendum will be conducted. This regulation is promulgated pursuant to the statutory requirement set out in KRS Chapter 247 and has no impact upon the federal mandate.

2. State compliance standards. No. This regulation is promulgated in direct compliance with a Kentucky statute. There is no applicable federal jurisdiction or standard.

3. Minimum or uniform standards contained in the federal mandate. Not applicable.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

JUSTICE CABINET Office of the Secretary

500 KAR 9:010. Definitions.

RELATES TO: KRS 218A.410, et seq., Kentucky Acts 1990 Chapter 445

STATUTORY AUTHORITY: KRS 218A.435(8), 218A.440(4)

NECESSITY AND FUNCTION: This regulation provides the definitions of certain terms used in 500 KAR Chapter 9 which pertain to asset forfeiture as required by KRS Chapter 218A to be promulgated by the Justice Cabinet.

Section 1. As employed in these regulations, unless the context requires otherwise, the following words and phrases have the following meanings:

(1) "Secretary" means the Secretary of the Justice Cabinet.

(2) "Cabinet" means the Justice Cabinet.

(3) "Program coordinator" means the person within the office of the secretary who has been designated to coordinate the cabinet's duties with regard to asset forfeiture.

(4) "Controlled Substances Act" means the statutes concerning controlled substances found in Title XVIII, Chapter 218A of the Kentucky Revised Statutes, and any amendments or successors thereto.

(5) "Trust fund" means the asset forfeiture trust fund created by KRS 218A.435.

(6) "Direct law enforcement purpose" means any activity of a law enforcement agency as defined in the Controlled Substances Act which materially facilitates enforcement of the laws of the Commonwealth of Kentucky.

W. MICHAEL TROOP, Secretary

APPROVED BY AGENCY: June 1, 1990

FILED WITH LRC: June 4, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 1990 at 10 a.m. at the Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by July 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to

the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Christopher W. Johnson, Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Christopher Johnson

(1) Type and number of entities affected: All state and local law enforcement agencies, approximately 500 of them.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Regulation is definitional and equally applicable to all entities.

JUSTICE CABINET Office of the Secretary

500 KAR 9:020. Agency forfeiture policy.

RELATES TO: KRS 218A.435(9)

STATUTORY AUTHORITY: KRS 218A.435(8), 218A.440(4)

NECESSITY AND FUNCTION: KRS 218A.435 provides that each law enforcement agency prior to being eligible to receive grants from the trust fund must adopt policies relating to property seized pending forfeiture. This regulation addresses approval of that policy.

Section 1. If a law enforcement agency adopts a policy relating to the seizure, maintenance, storage and care of property pending forfeiture pursuant to the Controlled Substances Act other than the model policy as promulgated by the

Department of Criminal Justice Training, a copy shall be forwarded to the program coordinator.

Section 2. If a law enforcement agency adopts the "Model Policy For Forfeiture of Assets by Law Enforcement Agencies" as promulgated by the Department of Criminal Justice Training, it shall so notify the program coordinator by letter, signed by the head of the agency.

Section 3. Within thirty (30) days of receipt of a copy of asset forfeiture policies submitted by a law enforcement agency, the program coordinator shall advise the agency in writing whether it is in substantial compliance with the model policy and if not the specific deficiencies.

Section 4. Any agency which disagrees with the program coordinator's determination that a submitted policy is not in substantial compliance with the model policy may request the secretary to review such determination, and the secretary's decision shall be final.

W. MICHAEL TROOP, Secretary

APPROVED BY AGENCY: June 1, 1990

FILED WITH LRC: June 4, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 1990 at 10 a.m. at the Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by July 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Christopher W. Johnson, Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Christopher Johnson

(1) Type and number of entities affected: All state and local law enforcement agencies, approximately 500 of them.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Required adoption of a policy and copy to cabinet.

(2) Effects on the promulgating administrative body: Must receive and keep track of submitted policies.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Negligible additional paperwork.

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The statutes apply equally to all law enforcement agencies.

JUSTICE CABINET Office of the Secretary

500 KAR 9:030. Reports and audits.

RELATES TO: KRS 218A.410, et seq., 218A.440(1)
STATUTORY AUTHORITY: KRS 218A.435(8), 218A.440
NECESSITY AND FUNCTION: KRS 218A.440(1)
requires each law enforcement agency to file an annual report with the secretary listing all money and property seized during a fiscal year for forfeiture and the disposition thereof. KRS 218A.440(3) permits the secretary to initiate an inquiry to determine a law enforcement agency is forfeiting property and expending funds in accordance with the Controlled Substances Act. This regulation addresses these functions of the secretary.

Section 1. As soon as practical, but in no event more than thirty (30) days following seizure of property to be forfeited pursuant to the Controlled Substances Act, the seizing law enforcement agency shall forward to the program coordinator a copy of the property seizure and storage form or its equivalent as adopted by the agency in its policy regarding asset forfeiture.

Section 2. Each law enforcement agency shall forward to the program coordinator a copy of each final order of forfeiture which relates to property seized by that agency, within thirty (30) days from the issuance of such order.

Section 3. Each law enforcement agency shall, as soon as practical but in no event more than thirty (30) days following the sale of property awarded by final order of forfeiture, notify the program coordinator of property so sold, the amount received for such property, and the amount, if any, of any fee paid to any other person or agency for conducting the public sale. Any payment due to the trust fund will accompany this report.

Section 4. Any law enforcement agency retaining a forfeited vehicle for official use or separate sale shall so notify the program coordinator within thirty (30) days following the award of the vehicle to the agency by final order of forfeiture. If the vehicle is sold, the agency shall so notify the program coordinator and indicate the sale proceeds and specific

disposition thereof within thirty (30) days of the sale.

Section 5. A copy of any forfeiture lien requested to be filed by a law enforcement agency shall be forwarded to the program coordinator by the attorney preparing same within thirty (30) days of its filing.

Section 6. The annual report required to be filed by KRS 218A.440(1) shall be filed within thirty (30) days of the close of the fiscal year of the Commonwealth of Kentucky.

Section 7. Each law enforcement agency shall:

(1) Report when requested by the program coordinator, or other designee of the secretary, any and all data regarding property seized for forfeiture;

(2) Give the program coordinator, or other designee of the secretary, access for purpose of inspection or audit to any property seized for forfeiture or any records pertaining to the seizure, maintenance, custody, forfeiture or sale of such property; and

(3) Cooperate with the program coordinator, or other designee of the secretary, to the end that his duties may be properly performed.

W. MICHAEL TROOP, Secretary

APPROVED BY AGENCY: June 1, 1990

FILED WITH LRC: June 4, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 1990 at 10 a.m. at the Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by July 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Christopher W. Johnson, Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Christopher Johnson

(1) Type and number of entities affected: All state and local law enforcement agencies, approximately 500 of them.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements: Substantial increase in data/recordkeeping.
 - (3) Assessment of anticipated effect on state and local revenues: None
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives available.
 - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
 - (a) Necessity of proposed regulation if in conflict:
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
 - (6) Any additional information or comments:
- TIERING: Was tiering applied? No. The statutes apply equally to all law enforcement agencies.

JUSTICE CABINET
Office of the Secretary

500 KAR 9:040. Grants.

RELATES TO: KRS 218A.435
STATUTORY AUTHORITY: KRS 218A.435(8)
NECESSITY AND FUNCTION: KRS 218A.435(7)(d)
provides that a portion of the asset forfeiture trust fund shall be allocated to the cabinet for the purpose of disbursement to law enforcement agencies as grants. This regulation establishes the application mechanism.

Section 1. Law enforcement agencies may apply for receipt of a grant from the trust fund on forms provided by the Division of Grants Management of the Justice Cabinet.

Section 2. When applying a law enforcement agency must certify that one (1) or more currently employed officers has received the approved training required in KRS 218A.435(10). In addition, the applying agency must have on file with the program coordinator an approved policy as required in KRS 218A.435(9) and 500 KAR 9:020.

Section 3. Grant monies are to be used by the agency for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes or other similar purposes relating to drug enforcement. Preference will be give to those applications seeking funding for programs consistent with the annual "Statewide Drug and Violent Crime Strategy" as developed and published by the Division of grants Management of the Justice Cabinet.

W. MICHAEL TROOP, Secretary

APPROVED BY AGENCY: June 1, 1990

FILED WITH LRC: June 4, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 24, 1990 at 10 a.m. at the Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by July 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the

hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Christopher W. Johnson, Justice Cabinet, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Christopher Johnson

(1) Type and number of entities affected: All state and local law enforcement agencies, approximately 500 of them.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Minimal reporting for agencies receiving grants.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Minimal

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Minimal

(3) Assessment of anticipated effect on state and local revenues: Will increase local revenues as pertaining to enforcement grants.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This method is currently utilized for all grants administered by the cabinet.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The statutes apply equally to all law enforcement agencies.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers

601 KAR 1:029. Definitions relating to 601 KAR 1:030 through 601 KAR 1:145.

RELATES TO: KRS Chapter 281

STATUTORY AUTHORITY: KRS 281.600

NECESSITY AND FUNCTION: To assure uniformity of all terminology in the administrative regulations relating to motor carriers.

Section 1. KRS 281.010-281.014 Adopted. The definitions set forth in KRS 281.010-281.014

shall have the same meaning and effect in the administrative regulations of the Transportation Cabinet which relate to motor carriers: 601 KAR 1:030 through 601 KAR 1:145.

Section 2. Official Maps Defined for Use. The cabinet, when considering, in any matter, that phase of the authority issued by it involving highways or specific highway routes shall use photostatic copies of official maps issued by the Kentucky Department of Highways and certified by them for the year in which the authority was issued, or the map issued immediately preceding the year of issuance, if the map for that year will be or was issued subsequent to the authority.

Section 3. Approval. "Approval" shall mean written approval.

Section 4. Authorized Carrier. "Authorized carrier" shall mean a person duly qualified with the cabinet to engage in the transportation of persons or property for hire in either interstate commerce, or intrastate commerce in Kentucky, or both.

Section 5. Delivery. "Delivery" shall mean handing the legal document or paper to the attorney or to the party; or leaving it at his office with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein, or if the office is closed, or the person to be served has no office, leaving it at his dwelling house or his place of abode with some person of suitable age and discretion then residing therein.

Section 6. Manifest. "Manifest" shall mean a complete listing of all shipments on a truck. The manifest shall refer to the freight bill of each shipment by individual pro number, and show the weight of each shipment and the origin and destination of each shipment.

Section 7. Party. "Party" shall mean either an applicant, complainant, respondent, or a person who has filed a protest in accordance with 601 KAR 1:030.

Section 8. Qualified Equipment. "Qualified equipment" shall mean a motor vehicle duly and currently registered and licensed for the transportation of persons or property for hire in intrastate commerce in Kentucky by an authorized carrier who may properly conduct such transportation.

Section 9. Service. "Service" when regarding a legal document or paper shall mean the delivery of a copy of a pleading, protest, or other paper to the other party or his attorney, or by mailing it to the other party or his attorney, at the last known address of either.

Section 10. Repealer. 601 KAR 1:035, Definitions, is hereby repealed.

JEROME L. LENTZ, Commissioner

MILO D. BRYANT, Secretary

APPROVED BY AGENCY: May 23, 1990

FILED WITH LRC: May 30, 1990 at 10 a.m.

PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on July 25, 1990, 10 a.m., local prevailing time in

the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by July 20, 1990 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until July 20, 1990. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All 35,000 motor carrier companies operating in Kentucky.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Putting the definitions in each individual regulation was rejected because not all of the regulations need to be amended at this time. However, as the motor carrier regulations are amended, the appropriate definitions are being placed in Section 1 of the individual regulations. Eventually, we shall be able to repeal this regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: The current definitions regulation 601 KAR 1:035 had to be amended because of changes to U-Drive-Its by the 1990 General Assembly. The definition of U-Drive-It in Section 10 had to be removed. In order to move the definition administrative regulation in front of the regulations to which it applies, the existing 601 KAR 1:035 is repealed and this regulation

promulgated.

TIERING: Was tiering applied? No. Not able and no need to apply tiering to definitions.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
Division of Motor Vehicle Enforcement

601 KAR 1:160. Motor carrier vehicle identification.

RELATES TO: KRS Chapters 138 and 281

STATUTORY AUTHORITY: KRS 138.665, 281.600, 281.750

NECESSITY AND FUNCTION: This regulation sets forth the requirements for the marking and identification of commercial motor vehicles operating in the Commonwealth of Kentucky. These same requirements have been set forth in 601 KAR 1:150. However, more specific authority for the issuance of the administrative regulation was given the Transportation Cabinet in House Bill 665 passed by the 1990 General Assembly. To insure compliance with KRS Chapter 13A the cabinet is repealing 601 KAR 1:150 and promulgating 601 KAR 1:160. These two (2) administrative regulations are identical because during the 1990 session, Transportation Cabinet officials testified to the Senate Transportation Committee that there would be no change in the requirements to the motor carrier industry.

Section 1. Definitions. (1) "Control number" means either an Interstate Commerce Commission motor carrier (ICC MC) number as required by 49 CFR 1058.2; a U.S. Department of Transportation (DOT) number as required by 49 CFR 390.21; or a Kentucky highway motor fuel use license (KYU) number as required by KRS 138.665;

(2) "Unique vehicle identification number" means the company unit number assigned to an individual vehicle;

(3) "Motor carrier" means as defined in KRS 138.655(5);

(4) "Carrier" means as defined in KRS 281.011(1) except U-drive-its;

(5) "Motor carrier vehicle identification card (cab card)" means that identifying plate, decal, card, sign or paper issued by the Department of Vehicle Regulation under the authority of KRS 281.752; and

(6) "Commercial motor vehicle" means as defined in KRS 138.655(4) and (5)(c) except that it does not include a farm vehicle properly registered under KRS 186.050(4).

Section 2. Identification. All motor carriers shall at all times display on each side of every vehicle employed by them in their operations the name of the company or person conducting the operation as the name appears on the certificate or permit authorizing the operation. An assumed or trade name may be used providing the appropriate statutes and regulations are complied with and the assumed or trade name also appears on the certificate or permit. The letters shall be of sufficient size so as to be readily legible. The motor carrier vehicle identification card (cab card) issued for the vehicle shall at all times be prominently displayed on the inside of the vehicle. The name of the driver operating a vehicle engaged in

transportation of persons for-hire shall be prominently displayed in the vehicle.

Section 3. Control Number and Unique Identifier. (1) Every commercial motor vehicle having a declared gross weight above 26,000 pounds with three (3) or more axles, which is subject to any of the taxes in KRS 138.660, shall when operating upon the public highways of the Commonwealth of Kentucky display on the vehicle the control number of the motor carrier under whose authority the vehicle is being operated and a unique vehicle identification number for the vehicle. The motor carrier's control number required by this administrative regulation shall only be accepted by the Department of Vehicle Regulation for the purpose of exterior display on the vehicle and shall not be accepted for any other purpose. These numbers may be permanently affixed to the vehicle or displayed by use of a removable device.

(2) All ICC MC or DOT numbers shall be validated with the Department of Vehicle Regulation prior to their being accepted as control numbers. The control number shall be placed on both sides of the main body of the cab. The number shall be immediately preceded by an Alpha prefix indicating that the number is an ICC MC, ICC, MC, DOT or KYU number. The figures shall be in sharp color contrast to the background of the vehicle and of such size, shape and color as to be readily visible during daylight hours from a distance of fifty (50) feet when the vehicle is not in motion. These numbers shall be placed on the vehicle no higher than the top of the side window and no lower than the top of the front wheel.

(3) The unique vehicle identification number shall be displayed on the front of the vehicle readily visible in daylight hours from a distance of 100 feet when the vehicle is not in motion. This number shall be in sharp color contrast to the background of the vehicle. It shall be placed no higher than the bottom of the windshield and no lower than the bottom of the front bumper.

Section 4. Repealer. 601 KAR 1:150, Identification of motor carrier vehicles, is hereby repealed.

JEROME L. LENTZ, Acting Commissioner

MILO D. BRYANT, Secretary

APPROVED BY AGENCY: May 23, 1990

FILED WITH LRC: May 30, 1990 at 9 a.m.

PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on July 25, 1990 at 11 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by July 20, 1990 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be

accepted until July 20, 1990. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All private and for-hire motor carriers with combination vehicles over 26,000 pounds gross weight which operate in Kentucky i.e., approximately 420,000 vehicles.

(a) Direct and indirect costs or savings to those affected: Placement of decal or paint on cab doors and front.

1. First year: Approximately \$50 per vehicle for marking.

2. Continuing costs or savings: \$50 for marking of each newly acquired vehicle.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The majority of motor carriers are already in compliance with this regulation as a result of earlier administrative regulation requirements.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The regulation has no direct cost or savings to the cabinet. However, the information available to the cabinet has a cost to collect.

1. First year: Approximately one million dollars for data entry clerks.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: The information collected as a result of the regulation leads to increased compliance with motor carrier tax laws and therefore an increase in taxes collected.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: It is expected that road fund revenue collection will be increased because of increased compliance with the motor carrier tax laws. This will increase not only state revenues but also local road fund revenues because there should be additional motor fuel taxes collected.

(4) Assessment of alternative methods; reasons why alternatives were rejected: An electronic tracking device that would have been installed in each truck was rejected as too costly. The least expensive tracking method was chosen.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: A commitment was made by the Transportation Cabinet for enhanced enforcement of the motor carrier tax laws as a result of the 1988 passage of HB 665. The marking provisions were originally adopted in 601 KAR 1:005. Later they were placed in 601 KAR 1:150. With the passage of HB 696 by the 1990 GA and the more specific statutory authorization, this regulation is

being adopted.

TIERING: Was tiering applied? Yes.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Administration and Finance

702 KAR 1:026. Repeal of 702 KAR 1:025.

RELATES TO: KRS 161.159

STATUTORY AUTHORITY: KRS 65.280, 156.070

NECESSITY AND FUNCTION: The Seek Educational Excellence in Kentucky Funding Program does not consider extended employment as a component of calculation, and this regulation is no longer needed.

Section 1. 702 KAR 1:025, Extended employment, is hereby repealed.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ron Moubray

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: \$55,000 savings.

2. Continuing costs or savings: \$55,000 annually savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Two reports annually eliminated for each local school district.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$20,000 savings.

2. Continuing costs or savings: \$20,000 annually savings.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Handling of two reports annually from each local school district eliminated.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:
TIERING: Was tiering applied? No. Application is the same for all local school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Administration and Finance

702 KAR 3:211. Repeal of 702 KAR 3:210.

RELATES TO: KRS 157.320, 161.030
STATUTORY AUTHORITY: KRS 157.320(9)

NECESSITY AND FUNCTION: The Foundation Program is no longer in existence, and calculations are not made on units or teacher salary positions. Therefore, this regulation is no longer needed as there are other methods of enforcing in-field assignments.

Section 1. 702 KAR 3:210, Foundation Program penalization for out-of-field assignments, is hereby repealed.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ron Moubray

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:
TIERING: Was tiering applied? No. Application is the same for all school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 3:321. Repeal of 704 KAR 3:320.

RELATES TO: KRS 158.750

STATUTORY AUTHORITY: KRS 156.070, 156.160, 158.750

NECESSITY AND FUNCTION: The essential skills provision in the statute has been deleted, and the test had been changed.

Section 1. 704 KAR 3:320, essential skills, is hereby repealed.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Kay Freeland

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None, regulation is being repealed.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Statute necessitating this regulation was repealed.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation

with conflicting provisions:

(6) Any additional information or comments:
TIERING: Was tiering applied? No. Applies to all local school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 3:380. Remediation of basic skills.

RELATES TO: Budget Bill, House Bill 799 (1990 RS), Part I, D., g., p. 39 (appropriation)

STATUTORY AUTHORITY: KRS 156.035, 156.070

NECESSITY AND FUNCTION: The 1990 Budget Bill, in conjunction with the 1990-92 Executive (Branch) Budget, Vol. I, pp. ED and H-22, 23, and 31 and the 1990-92 Budget Memorandum, Part I, Executive, D. Education and Humanities, Conference Report, March 30, 1990, pp. 19-20, provides for an appropriation to operate a remediation program. This regulation provides for a remedial education program and the allotment of available funds to local school districts, pursuant to the State Board for Elementary and Secondary Education's authority to implement acts appropriating funds by the state and to promulgate necessary regulations. This regulation is also promulgated to replace 704 KAR 3:355, which is repealed.

Section 1. Definitions. (1) "Remediation teacher" means a person holding a valid elementary education teaching certificate who provides remedial instruction to eligible students.

(2) "Instructional assistant" means a trained paraprofessional employee of the school district who provides tutorial instruction under the supervision of a teacher.

(3) "Remediation" means a program of instruction designed to correct educational deficiencies.

Section 2. Funding. Funding of the remediation program shall be as follows:

(1) Allocations to local school districts for a remediation program for the 1990-91 school year shall be maintained at least equal to the allocations for the 1989-90 school year.

(2) State funding for the remediation program shall be used for the cost of teacher units, including salaries and current operating expenses, and instructional assistant units not including current operating expenses.

Section 3. Eligibility Criteria. Selection of pupils to be served in the remediation program shall be as follows:

(1) Each school district shall select pupils to be served by the remedial instructional program who are deficient in one (1) or more of the skill areas of reading and mathematics. The following documentation shall be used to determine which students shall be served:

- (a) Teacher recommendation;
- (b) Academic performance; and

(c) Performance at or below the 20th national percentile on a norm-referenced achievement test.

(2) Pupils who have a greater need as determined by the eligibility criteria shall be selected first for instruction in the remediation program.

(3) No more than fifteen (15) pupils shall be

served by a full-time remediation teacher. No more than twenty-two (22) pupils shall be served by a full-time instructional assistant. For part-time teacher or instructional assistant units, the number of pupils served shall be reduced in accordance with the reduction of the unit.

(4) In the event that sufficient funds are available, eligible pupils in the third grade may be selected for participation in the remediation program, but all eligible pupils in the first and second grades shall be provided remediation first. A remedial education program in the third grade shall operate by the same procedures as a program in the first or second grade.

(5) School districts shall notify in writing the parents or guardians of any pupil selected for remediation of the intent to serve the pupil in the remediation program.

(6) With the exception of those pupils who are handicapped only by a speech impairment or physical handicap, as defined in 707 KAR 1:053, pupils who have been appropriately identified as handicapped by an admissions and release committee are not eligible to be served in the remediation program except upon a determination by the admissions and release committee that there is no other appropriate educational placement for such a pupil.

Section 4. Program Operation. (1) The remediation program shall include appropriate student learning activities and teaching techniques. The major emphasis of the remediation program shall be reading and mathematics.

(2) When instruction is in a self-contained classroom, content of all required curricula shall be taught with emphasis on reading and mathematics. The remediation program may be operated as a first grade, a second grade, or a combination grade room.

(3) When remedial instruction is provided by an instructional assistant, content of material presented shall be planned and supervised by the regular classroom teacher. The remedial instruction shall be provided in close proximity to the supervising teacher. This provision shall assure that the instructional assistant is not being placed in the position of assuming the duties and responsibilities of a teacher. The use of supplementary instructional materials shall be coordinated with lessons and materials presented in the regular classroom.

(4) Pupils receiving remedial education shall participate equally in all school services provided for other pupils of the same grade in such areas as art, music, physical education, and extracurricular activities in the same manner in which other pupils in the district receive such services.

Section 5. Qualifications of Personnel and Job Descriptions. Personnel qualified to serve in the remediation program shall meet the requirements for the position and fulfill the job description as follows:

(1) Teacher requirements.

(a) Hold valid elementary education teaching certification;

(b) Have demonstrated ability to work with pupils who have not been successful in the regular classroom;

(c) Have at least one (1) year prior

experience as a classroom teacher unless waived by the Superintendent of Public Instruction based upon documented evidence of lack of availability of personnel with such experience; and

(d) Participate in program training as specified by the Kentucky Department of Education and local district.

(2) Teacher job description.

(a) Implement instructional techniques and learning activities appropriate for students in need of remediation;

(b) Assess and document pupil progress on a continuous basis and modify instruction as necessary;

(c) Maintain program records as required by the Kentucky Department of Education and local district;

(d) Communicate with and involve parents; i.e., teacher/parent conferences, written communications, and home visits; and

(e) Communicate with other teachers, instructional assistants and supervisors as necessary.

(3) Instructional assistant requirements.

(a) Hold minimum of high school diploma or the equivalent issued pursuant to 709 KAR 1:030;

(b) Demonstrate competent language skills;

(c) Have demonstrated ability to work with pupils who have not been successful in the regular classroom;

(d) Participate in program training as specified by the Kentucky Department of Education and local district; and

(e) Meet the applicable criteria required by KRS 161.044.

(4) Instructional assistant job description. Under the direction of the supervising teacher an instructional assistant shall:

(a) Implement instructional techniques and learning activities appropriate for students in need of remediation;

(b) Provide tutorial instruction to pupils individually or in small groups;

(c) Assist with the documentation of pupil progress on a continuous basis;

(d) Prepare and organize materials and equipment for remedial instruction; and

(e) Participate as an integral member of the remediation instructional team.

Section 6. Facilities. (1) The remediation program shall be housed in facilities which are in compliance with 702 KAR 4:060, 702 KAR 4:070 and 702 KAR 4:080.

(2) In the event facilities are not available which meet the minimum square footage standards, the instructional area shall provide at least twenty-four (24) square feet of instructional space per pupil served or no less than 312 square feet.

Section 7. Program Evaluation. (1) The Kentucky Department of Education shall evaluate the effectiveness of the remediation program by compiling pre- and posttest score data on pupils served in the program. As a result of this evaluation, the Department of Education may make necessary modifications in the statewide remediation program to assure the effectiveness of the program.

(2) No later than September of each year, the local board of education shall evaluate the local remediation program and approve a plan of operation and program improvement for the

then-current school year based upon a review of the following factors from the previous year's program:

(a) Student pre- and posttest scores;

(b) Methods of instruction;

(c) Promotion and retention rates;

(d) Attendance;

(e) Parent involvement;

(f) Numbers of pupils served;

(g) Adequacy of materials; and

(h) Coordination between the remediation and regular school programs.

(3) On-site monitoring of remediation programs and local board approved plans shall occur as deemed necessary by the chief state school officer.

Section 8. 704 KAR 3:355, basic skills remediation, is hereby repealed.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: June 12, 1990

FILED WITH LRC: June 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, July 26, 1990, at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Adult, Vocational Education and Vocational Rehabilitation at its June meeting. Those persons wishing to attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before July 21, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joanne Brooks

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: LEAs must compile data on student performance and send it to the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: Previous methods have been evaluated and corrective methods incorporated in this regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments:
None
TIERING: Was tiering applied? No. Statute specifies direct allocations based on a formula.

EDUCATION AND HUMANITIES CABINET
Department of Education

705 KAR 1:001. Repeal of existing State Board for Adult, Vocational Education and Vocational Rehabilitation regulations.

RELATES TO: HB 814 (1990 Regular Session)
STATUTORY AUTHORITY: HB 814 (1990 Regular Session)

NECESSITY AND FUNCTION: Pertinent items in the herein-repealed regulations are being incorporated into regulations for the Department for Adult and Technical Education in the Workforce Development Cabinet created under HB 814 (1990 Regular Session), so the herein-repealed regulations are no longer necessary.

Section 1. 705 KAR 1:020, 709 KAR 1:060, 709 KAR 1:070, 705 KAR 1:010, 705 KAR 3:010, 705 KAR 3:030, 705 KAR 3:040, 705 KAR 3:075, 705 KAR 3:080, 705 KAR 3:110, 705 KAR 3:120, 705 KAR 4:010, 705 KAR 4:210, 705 KAR 4:220, 705 KAR 5:020, 705 KAR 5:040, 705 KAR 5:060, 705 KAR 5:070, 705 KAR 5:080, 705 KAR 5:090, 705 KAR 5:100, 705 KAR 5:110, 705 KAR 5:130, 705 KAR 5:140, 705 KAR 6:010, 705 KAR 11:010, 705 KAR 11:020, 705 KAR 11:030, and 705 KAR 11:040 are hereby repealed.

GEORGE R. SIEMENS, JR., Chairman

APPROVED BY AGENCY: June 4, 1990

FILED WITH LRC: June 11, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on July 25, 1990 at 10 a.m. Eastern Daylight Time (EDT) in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by July 20, 1990, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Audrey T. Carr, Secretary, State Board for Adult, Vocational Education and Vocational Rehabilitation, 2013 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale

(1) Type and number of entities affected: The 77 state-operated schools in the Kentucky Tech system; 172 local school districts and 14 community colleges.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: No change.

(a) Direct and indirect costs or savings: No change.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This regulation repeals several regulations which are being incorporated into new regulations for the Department of Adult and Technical Education as required by HB 814.

TIERING: Was tiering applied? Yes

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. P.L. 98-524 (Sections 27 & 28 of HB 814).

2. State compliance standards. HB 814 (1990 RS) shifts responsibility for adult education, postsecondary technical education and state operation of vo-tech schools and sole state agency responsibility to new Department for Adult and Technical Education. (Federal compliance standards remain the same.)

3. Minimum or uniform standards contained in the federal mandate. Will be complied with in new regulations being promulgated.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

PUBLIC PROTECTION & REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Fire Prevention

815 KAR 35:030. Kentucky certification of electrical contractors.

RELATES TO: KRS 227.450 through 227.500

STATUTORY AUTHORITY: House Bill 76

NECESSITY AND FUNCTION: House Bill 76 of the 1990 Session of the General Assembly requires that the Department of Housing, Buildings and Construction select and approve an examination designed to determine the competency of electrical contractors under the National Electrical Code, to certify those individuals passing the examination and to collect and compile reports on disciplinary actions taken against licensed electrical contractors by cities and counties. This regulation is necessary in order to establish procedures of administration and reasonable fees to carry on the certification program.

Section 1. Definitions. (1) "Department" means the Department of Housing, Buildings and

Construction.

(2) "NAIE" means the examination based upon the National Electrical Code which is developed, administered and scored by the National Assessment Institute.

(3) "NCPCCI" means the National Certification Program for Construction Code Inspectors.

(4) "Kentucky Certificate of Electrical Contractor Examination" means the written document issued by the department which certifies that the person whose name is listed thereon has successfully completed the examination required by this regulation.

Section 2. Approved Examinations. (1) Any person seeking to obtain a Kentucky Certificate of Electrical Contractor Examination shall pass the examination known as the NAIE, except as allowed by subsection (2) of this section.

(2) Grandfather clause. Any person who is both licensed by any city or county on the effective date of this regulation and who also has previously received a passing grade on one (1) of the following examinations shall be certified upon request as provided by this regulation:

(a) Educational Testing Services Examination (multistate electrical testing); or

(b) Block and Associates Examination; or

(c) NCPCCI Electrical Inspector, General, Examination; or

(d) Any other electrical examination not listed in subsections (1) or (2)(a) through (c) of this section, if and only if, upon advice of the Electrical Advisory Committee, the department determines that the examination is substantially equivalent to NAIE.

(3) The department shall issue or renew a Kentucky Certificate of Electrical Contractor Examination to any person who complies with the terms of this regulation.

Section 3. Proof of Insurance. (1) An applicant may submit to the department proof of \$250,000 liability insurance for electrical construction work by certificate from the insurance company and he may also submit an affidavit that he complies with Kentucky worker's compensation and unemployment insurance laws.

(2) If the applicant submits all the proof as set forth in subsection (1) of this section, the department will indicate that fact on the applicant's certificate. This proof shall be submitted annually, upon renewal, in order to continue to be noted upon the certificate.

Section 4. Application for Certificate. (1) Application shall be made to the department by the individual seeking certification.

(2) The application shall be on forms provided by the department and shall be accompanied by a fee in the sum of \$100 to cover the administrative costs of processing the application, verifying examination scores and issuing certificates.

(3) Each person seeking certification pursuant to this regulation shall be required to pay an additional annual renewal fee in the sum of twenty-five (25) dollars no later than June 30 of each year in order to maintain his/her certification. Failure to renew shall require reexamination and compliance with this regulation as a new applicant for certification.

(4) The Kentucky Certificate of Electrical

Contractor Examination is not a license to do business as an electrical contractor.

Section 5. Notice of Penalty. Any certificate or notation of insurance obtained by misrepresentation or fraudulent representation shall void the certificate or notation.

CHARLES A. COTTON, Commissioner

THEODORE T. COLLEY, Secretary

APPROVED BY AGENCY: June 7, 1990

FILED WITH LRC: June 13, 1990 at noon

PUBLIC HEARING: A public hearing on this regulation shall be held on July 24, 1990 at 10 a.m. in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by July 19, 1990, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: Electrical contractors who desire state certification and any local government agency licensing electrical contractors and issuing permits for electrical wiring.

(a) Direct and indirect costs or savings to those affected:

1. First year: Electrical contractors - \$100 for certification, \$50 additional if not yet tested; local governments - indirect costs of amending program.

2. Continuing costs or savings: Electrical contractors - \$25 renewal fee.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Proof of workers compensation, unemployment insurance and liability insurance required for each permit.

(2) Effects on the promulgating administrative body: New program supported by fees. Recordkeeping and clearinghouse function with some review of examinations on basis of validity, cost and ease of administration.

(a) Direct and indirect costs or savings:

1. First year: \$100 fee per applicant.

2. Continuing costs or savings: \$25 renewal fee per applicant.

3. Additional factors increasing or decreasing costs: Any new legislation may escalate the program into more involvement in process.

(b) Reporting and paperwork requirements: Applications, certificates and personnel to review insurance compliance.

(3) Assessment of anticipated effect on state and local revenues: There is no direct impact by this regulation because it is not a mandatory

certification program. Local governments may license or not, but if they do, they must use department test.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Other tests have been evaluated and this one chosen upon advice of the Electrical Advisory Committee.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: House Bill 100 also requires workers compensation and unemployment insurance before any permit for construction is valid.

(a) Necessity of proposed regulation if in conflict: No real conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This regulation affects local governments.

3. State the aspect or service of local government to which this administrative regulation relates. This regulation affects local control of electrical contractors.

4. How does this administrative regulation affect the local government or any service it provides? This regulation requires any local government which chooses to license electrical contractors to accept and administer the particular test chosen by the Department of Housing, Buildings and Construction if the local government requires examination as a condition of licensure.

CABINET FOR HUMAN RESOURCES Department for Health Services

902 KAR 2:130. Human immunodeficiency virus education.

RELATES TO: KRS 211.180, House Bill 425

STATUTORY AUTHORITY: KRS 194.050, House Bill 425

NECESSITY AND FUNCTION: House Bill 425, enacted during the 1990 Regular General Assembly, requires the cabinet to approve an educational course relating to human immunodeficiency virus and acquired immunodeficiency syndrome. This administrative regulation is promulgated to comply with requirements of House Bill 425.

Section 1. Pursuant to House Bill 425, a human immunodeficiency virus (HIV) training and certification program is established by the Cabinet for Human Resources. It shall be within a department or office of the cabinet or shall be contracted to a qualified educational provider. The program shall approve one (1) or more curricula of not less than four (4) hours including but not limited to:

(1) Current medical information regarding HIV infection and disease;

(2) Methods of transmission, risk factors and methods of prevention of HIV infection;

(3) Issues regarding HIV policies in the health care workplace, including infection control; and

(4) An emphasis on the need for a comprehensive array of human services for persons with HIV infection.

Section 2. The program shall keep a record of those persons who have successfully completed the course, and shall issue a dated certificate of completion to each of them. The licensure boards of the professions specified in Sections 4 through 14 and 16 through 29 of House Bill 425 shall recognize the certificate as proof of completion of the HIV education requirement contained in House Bill 425.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 10, 1990

FILED WITH LRC: June 7, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the DES Conference Room, Second Floor, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Reginald Finger

(1) Type and number of entities affected: Board of licensure for 11 professions - estimated 75,000 licensees.

(a) Direct and indirect costs or savings to those affected:

1. First year: A one-time premium of \$5-\$10 will probably be necessary in 1991 or 1992 added to the cost of licensure renewals - to pay for educational materials.

2. Continuing costs or savings: The cost of initial licensure will need to be raised permanently by the same amount, effective for those licensed on or after 7-1-91.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Increased turnover of licensees in the state will increase costs.

(b) Reporting and paperwork requirements: Licensure boards must require certificates from initial and continuing licensees.

(2) Effects on the promulgating administrative body: A program will have to be either established or contracted by CHR.

(a) Direct and indirect costs or savings:

1. First year: \$96,000.

2. Continuing costs or savings: Approximately \$125,000/year - 4 staff plus operating costs (these costs were in fiscal note on House Bill 425).

3. Additional factors increasing or decreasing costs: Significant economies of scale can be achieved if AIDS knowledge base stabilizes and curricular material does not have to be changed frequently.

(b) Reporting and paperwork requirements: One certificate per licensee must be issued.

(3) Assessment of anticipated effect on state

and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: Statute specifically requires CHR to take responsibility for the program.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Statute requires all licensees in these professions to complete the educational requirement.

CABINET FOR HUMAN RESOURCES Department for Health Services

902 KAR 2:140. Human immunodeficiency virus (HIV) test counseling.

RELATES TO: KRS 211.180, House Bill 425

STATUTORY AUTHORITY: KRS 194.050, 211.090, House Bill 425

NECESSITY AND FUNCTION: House Bill 425, enacted during the 1990 Regular General Assembly, requires that each person providing posttest counseling to persons with positive HIV test results receives specialized training. This regulation is promulgated to comply with House Bill 425.

Section 1. Before functioning as a counselor in a human immunodeficiency virus (HIV) counseling and testing site under the auspices of the Cabinet for Human Resources, a person shall have completed a training course approved by the Sexually Transmitted Disease Section, Department for Health Services, which includes, but is not limited to, the following:

- (1) Medical overview of HIV infection and disease;
- (2) Explanation of types of HIV tests and their interpretation;
- (3) Review of risk factors for HIV infection and how to prevent infection;
- (4) Instruction in counseling approach to a person seeking and/or needing HIV testing;
- (5) Instruction and role play in informing a person of a positive HIV test;
- (6) Recognition of need for social services and/or mental health referral, and instruction on how to make these referrals;
- (7) Instruction regarding medical care referrals for a person with HIV, including tuberculosis skin testing;
- (8) Instruction regarding partner notification services for persons with HIV; and
- (9) Training emphasizing the need to assure a complete, coordinated array of care for a person with HIV, and emphasizing the need to view HIV as a chronic disease rather than a rapidly fatal condition.

C. HERNANDEZ, M.D., Commissioner

HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: May 10, 1990

FILED WITH LRC: June 7, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for July 23, 1990 at 9 a.m. in the DES Conference Room, Second

Floor, Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by July 18, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Reginald Finger

(1) Type and number of entities affected: Local health departments in 45 counties that do not already have programs.

(a) Direct and indirect costs or savings to those affected:

1. First year: Approximately \$15,000 to send 100 total persons to 2 day training course.

2. Continuing costs or savings: Negligible

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Must keep track of those trained in course.

(a) Direct and indirect costs or savings:

1. First year: Negligible

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: See (2) above.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Statute is specific regarding requirements for posttest counselors.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Local health departments are the only ones affected and there are a limited number of them. Statute requires that counseling and testing be done in all 120 counties.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No Local health departments.

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Only a part - just the health department.

3. State the aspect or service of local government to which this administrative regulation relates. HIV counseling and testing services offered in local health departments.

4. How does this administrative regulation affect the local government or any service it provides? Requires health department staff to complete a specified course before performing posttest counseling of person who tests positive for HIV.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the June 11 & 12, 1990 Meeting

The June meeting of the Administrative Regulation Review Subcommittee was held on Monday, June 11, 1990 at 9 a.m. in the House Chamber and on Tuesday, June 12, 1990 at 10 a.m. in Room 104 of the Capitol Annex. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Bruce, seconded by Senator Quinlan, the minutes of the May 11, 1990 meeting were approved.

Present June 11, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Tom Kerr.

Present June 12, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Tom Kerr.

Guests: Arthur Hatterick, Jr., Personnel Board; Roger Coomes, G. F. Horn, Department of Housing; Bruce McCutchen, Revenue Cabinet; Nancy Brinly, Richard Carroll, Kim Cleary, Board of Physical Therapy; Roger Nesbitt, Department of Agriculture; Tom Edwards, Don McCormick, John Phillips, Lauren Schaaf, Jeffery Sole, Thomas A. Young, Department of Fish and Wildlife Resources; Terry P. Anderson, Kathryn M. Hargraves, Dave Rosenbaum, Jack Wilson, Natural Resources and Environmental Protection Cabinet; Michael Bradley, Ellen Tharpe, Corrections Cabinet; Joyce Logan, Brenda Rollins, Harlan W. Stubbs, Jr., Hanson Williams, Department of Education; Charles E. McCoy, Guy Schoofield, Kembra Taylor, Labor Cabinet; Mike Fulkerson, State Racing Commission; Clyde A. Burgess, M.D., Marcia Burklow, Barbara Coleman, Mel Counts, Karen Doyle, Ked R. Fitzpatrick, John Gray, N. Clifton Howard, Vicki D. Jeffs, Janice Kline, Cathy G. Mobley, Anita Moore, Danise Newton, Donald O. Nodler, Tommy Thompson, Cabinet for Human Resources; Debbie Miles, Alliant Health System; Tom Mills, Billy V. Wise, Kentucky High School Athletic Association; Nancy Galvagni, Kentucky Hospital Association; Don Chasteen, Bill Doll, Kentucky Medical Association.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Susan Eastman, Donna Pierce, and Carla Arnold.

The Administrative Regulation Review Subcommittee met on June 11 and 12, 1990, and submits this report:

The Subcommittee convened at 9 a.m. on June 11, 1990. The meeting on July 11 was devoted to the Continuing Legal Education Seminar on Administrative Regulations. The Subcommittee reconvened at 10 a.m. on June 12, 1990 and made the following determinations:

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

General Government Cabinet: Board of Pharmacy

201 KAR 22:053 (Code of ethical standards and standards of practice for physical therapists and physical therapist's assistants.) Representative Kerr suggested that Section 5(3) be amended to delete the word "solely". He

stated that if responsibility is assigned to the physical therapist without exemption, it is only his responsibility; other words are redundant. The Subcommittee approved a motion to amend Section 5(3) accordingly. A representative of the Kentucky Hospital Association objected to the requirement in Section 5(2)(f) for reevaluation of patients after the earlier of every 20 physical therapy visits, or after 30 days following the initial evaluation or subsequent reevaluation. She pointed out that national standards do not require such frequent evaluation; the cost to both insurers and patients would increase; services in rural areas would be affected because there is an insufficient number of physical therapists; and, because of this ratio, hospitals in rural areas would not be able to comply with the reevaluation or supervision requirements. She added that this administrative regulation ignored the role of department heads and others who are also responsible for supervision, reporting and evaluation of physical therapist assistants.

Chairman O'Brien asked for an explanation of what an evaluation entailed and of the costs involved. Agency personnel pointed out the requirements for evaluations specified in this administrative regulation. They also stated that, where frequent evaluation would not be required because patients are less fragile, or their condition is not subject to change, this administrative regulation provided for less frequent evaluation. Chairman O'Brien stated that the problems raised by this administrative regulation should be considered in detail by the Interim Joint Committee with expertise in this matter, and that it would receive this review when this administrative regulation is assigned by LRC.

Tourism Cabinet: Department of Fish and Wildlife Resources: Game

301 KAR 2:047 (Specified areas; seasons, limits for upland game birds, furbearers and small game.) This administrative regulation was amended to insert words inadvertently omitted before the administrative body filed it with LRC.

301 KAR 2:250 (Seasons and limits for upland game birds, furbearers and small game.) This administrative regulation was amended to correct a cross-reference to a section.

Corrections Cabinet: Office of the Secretary

501 KAR 6:040 (Kentucky State Penitentiary.) This administrative regulation was amended to conform with the drafting requirements of KRS 13A.222.

501 KAR 6:070 (Kentucky Correctional Institution for Women.) This administrative regulation was amended to conform with the drafting requirements of KRS 13A.222.

Cabinet for Human Resources: Department for Health Services: Radiology

902 KAR 100:010 (Definitions.) This administrative regulation was amended to replace the word "and" with "or" in order to clarify that any the occurrence of one condition is sufficient for a determination of misadministration from therapeutic radiation dose.

Cabinet for Human Resources: Department for Social Insurance: Public Assistance

904 KAR 2:016 (Standards for need and amount; AFDC.) This administrative regulation was amended to clarify that overpayments would be recovered from the claimant, the individual responsible for an overpayment. Other technical corrections were made accordingly.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Personnel Board

101 KAR 1:325 (Probationary periods.)

Revenue Cabinet: Department of Administrative Services: Ad Valorem Tax; Local Assessment

103 KAR 7:025 (Life expectancy table.)

General Government Cabinet: Board of Physical Therapy

201 KAR 22:052 (Refusal, revocation, suspension or probation of license or certificate; administrative warning to licensee or certificiant.)

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

201 KAR 22:110 (Renewal of assistant's certification.)

Tourism Cabinet: Department of Fish and Wildlife Resources: Game

301 KAR 2:210 (Antlerless deer permits.)

Wildlife

301 KAR 4:010 (Districts.)

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:029 (General provisions.)

401 KAR 5:040 (Treatment requirements, coal remining operations.)

Education and Humanities Cabinet: Department of Education: State Board for Elementary and Secondary Education: Office of School Administration and Finance: School Terms, Attendance and Operation

702 KAR 7:065 (Designation of agent to manage high school interscholastic athletics.)

State Board for Adult, Vocational Education and Vocational Rehabilitation: Office of Vocational Education

705 KAR 4:220 (Tuition and fees.)

Labor Cabinet: Department for Workplace Standards: Labor Standards; Wages and Hours

803 KAR 1:090 (Handicapped and sheltered workshop employee's wages.)

Occupational Safety and Health

803 KAR 2:403 (Adoption of 29 CFR Part 1926.50-1926.59.)

803 KAR 2:415 (Adoption of 29 CFR Part 1926.650-1926.653.)

803 KAR 2:416 (Adoption of 29 CFR Part 1926.700-1926.704.)

Public Protection and Regulation Cabinet: State Racing Commission: Thoroughbred Racing Rules

810 KAR 1:050 (Steeplechase racing.)

Cabinet for Human Resources: Department for Health Services: Emergency Medical Technicians

902 KAR 13:080 (Authorized procedures.)

Radiology

902 KAR 100:012 (Fee schedule.)

902 KAR 100:017 (Special requirements for teletherapy licensees.)

902 KAR 100:020 (Standards for protection against radiation.)

902 KAR 100:021 (Disposal of radioactive material.)

902 KAR 100:040 (General provisions for specific licenses.)

902 KAR 100:050 (General licenses.)

902 KAR 100:073 (Use of radionuclides in the healing arts.)

902 KAR 100:100 (Industrial radiography.)

902 KAR 100:142 (Wireline service operations.)

Radiation Operators Certification

902 KAR 105:020 (General requirements.)

Department for Social Insurance: Public Assistance

904 KAR 2:040 (Procedures for determining initial and continuing eligibility.)

Department for Medicaid Services: Medicaid Services

907 KAR 1:004 (Resource and income standard of medically needy.)

907 KAR 1:011 (Technical eligibility requirements.)

907 KAR 1:013 (Payments for hospital inpatient services.)

907 KAR 1:024 (Intermediate care facility services.)

907 KAR 1:036 (Amounts payable for skilled nursing and intermediate care facility services.)

907 KAR 1:054 (Primary care center and federally-qualified health center services.)

907 KAR 1:055 (Payments for primary care center and federally-qualified health center services.)

907 KAR 1:061 (Payments for medical transportation.)

907 KAR 1:170 (Payments for home and community based services.)

907 KAR 1:340 (Payments for hospice services.)

907 KAR 1:374 (Incorporation by reference of the skilled nursing facility services manual.)

907 KAR 1:378 (Incorporation by reference of the intermediate care facility services manual.)

907 KAR 1:390 (Incorporation by reference of the hearing services manual.)

907 KAR 1:428 (Incorporation by reference of the adult day health care services manual.)

907 KAR 1:430 (Incorporation by reference of the home health services manual.)

Department for Mental Health and Mental Retardation Services: Institutional Care

908 KAR 3:100 (Policies and procedures of Eastern State Hospital.)

908 KAR 3:180 (Policies and procedures of Oakwood ICF/MR.)

The following regulations were deferred to the promulgating agency's request:

General Government Cabinet: Board of Pharmacy

201 KAR 2:074 (Pharmacy services in hospitals.) This administrative regulation was again deferred until federal requirements governing its provisions could be clarified.

Education and Humanities Cabinet: Department of Education: State Board for Adult, Vocational Education and Vocational Rehabilitation: Office of Vocational Education: Instructional Programs

705 KAR 4:010 (General standards.)

Office of Programs: Adult Education

709 KAR 1:011 (Repeal of 709 KAR 1:010.)

709 KAR 1:020 (Testing program.)

709 KAR 1:030 (High school equivalency certificate.)

709 KAR 1:060 (Standard for academic progress for post secondary and adult students.)

These administrative regulation were deferred to allow time for the State Board to withdraw these regulations since this program is no longer under its jurisdiction and to allow the new State Board for Adult and Technical Education to promulgate new regulations in compliance with KRS Chapter 13A.

Cabinet for Human Resources: Department for Health Services: State Health Plan

902 KAR 17:020 (State health plan process.)

Questions had been raised relating to the role of advisory groups in the drafting of the State Health Plan. The provisions of this administrative regulation seem to restrict the role to adoption of a completed proposed state health plan, while relevant statutes required a more active role. Agency personnel agreed to meet with interested parties and attempt to develop an amendment that would satisfy all parties.

The Subcommittee had no objections to emergency regulations which had been filed.

OTHER BUSINESS:

Education and Humanities Cabinet: Department of Education: State Board for Elementary and Secondary Education: Office of Local Services: School Terms, Attendance and Operation

702 KAR 7:090 (Requirements for coaches and other personnel staffing interscholastic athletic programs.) The Subcommittee attached a statement of deficiency to this administration regulation on March 1, 1989, as follows: On motion of Representative Bruce, the Subcommittee objected to this regulation because of concern over unavoidable absences not being specifically allowed to be made up in a make-up sports medicine symposium, thus incurring rather severe penalties. This administrative regulation was subsequently amended and reviewed by the Subcommittee at its May 11, 1990 meeting, at which time the statement of deficiency was not removed.

The Department of Education requested that the Subcommittee reconsider its finding of deficiency on this regulation at its June 12, 1990 meeting. The Subcommittee approved a motion to remove its objection to this regulation.

The Subcommittee adjourned at 10:45 a.m. until July 9, 1990 at 2 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

**INTERIM JOINT COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES
Meeting of May 31, 1990**

The Interim Joint Committee on Agriculture and Natural Resources met May 31, 1990, and submits this report:

The committee determined that administrative regulation 302 KAR 40:010 complies with KRS Chapter 13A.

The committee also determined that water quality administrative regulations 401 KAR 5:026, 401 KAR 5:029, and 401 KAR 5:031 do not comply with KRS Chapter 13A.

The committee adjourned at 4:00 p.m., May 31, 1990.

**INTERIM JOINT COMMITTEE ON CITIES
Meeting of June 7, 1990**

The Interim Joint Committee on Cities met on June 7, 1990, and submits this report:

The Committee determined that the following regulations complied with KRS Chapter 13A and has approved such regulations without objection:

815 KAR 20:010 Plumbing (parts or materials list)

815 KAR 20:091 Plumbing (minimum fixture requirements)

CUMULATIVE SUPPLEMENT

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NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.

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