

ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
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MEETING NOTICE: The Administrative Regulation Review Subcommittee is scheduled to meet on April 8, 1997. See tentative agenda beginning on page 3507 of this Register.

ADMINISTRATIVE REGISTER - 3507

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA - April 8, 1997 at 10 a.m.
Room 149, Capitol Annex**

(& E) - means that the emergency administrative regulation has previously been reviewed by the subcommittee

LEGISLATIVE RESEARCH COMMISSION

Capital Planning Advisory Board

1 KAR 6:020. Policies and procedures. (Deferred from February)

COUNCIL ON HIGHER EDUCATION

Public Educational Institutional Institutions

13 KAR 2:045. Determination of residency status for admission and tuition assessment purposes.

**FINANCE AND ADMINISTRATION CABINET
Office of the Secretary**

Property

200 KAR 6:050E. Control of concealed deadly weapons on property owned or leased by the executive and judicial branches of state government.

GENERAL GOVERNMENT CABINET

Board of Pharmacy

201 KAR 2:045. Technicians. (Public Hearing in March)

201 KAR 2:220. Collaborative care agreements. (Public Hearing in March)

Board for Specialists in Hearing Instruments

201 KAR 7:040. Examinations.

Board of Veterinary Examiners

201 KAR 16:015. Fees.

201 KAR 16:040. Approved programs for veterinary technicians and veterinary technologists.

Board of Examiners and Registration of Architects

201 KAR 19:025. Application for examination.

201 KAR 19:031. Repeal of 201 KAR 19:030.

201 KAR 19:035. Qualifications for examination.

201 KAR 19:040. Examinations required; general provisions.

201 KAR 19:050. Re-examination; reconsideration.

201 KAR 19:085. Fees.

Board of Certification of Alcohol and Drug Counselors

201 KAR 35:020. Fees.

**TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife**

Wildlife

301 KAR 4:100. Peabody Wildlife Management Area use requirements and restrictions.

Licensing

301 KAR 5:040. Selling and purchasing migratory game bird and waterfowl permits.

Water Patrol

301 KAR 6:030. Waterway safety requirements.

**DEPARTMENT OF AGRICULTURE
Division of Animal Health**

Livestock Sanitation

302 KAR 20:110 (&E). Treatment of imported mares.

302 KAR 20:120 (&E). Treatment of imported stallions.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water**

Water Quality (Deferred from January)

401 KAR 5:001. Definitions of terms used in 401 KAR Chapter 5. (Amended After Hearing)

401 KAR 5:005. Permits to construct, modify, or operate a facility. (Amended After Hearing)

401 KAR 5:006. Wastewater planning requirements for regional areas. (Amended After Hearing)

Public Water Supply (Deferred from January)

401 KAR 8:010. Definitions for 401 KAR Chapter 8.

401 KAR 8:030 & E. Water treatment plants; water distribution systems; certification of operators. (Public Hearing in March)

401 KAR 8:060. Variances and exemptions.

401 KAR 8:070. Public notification.

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LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

Occupational Safety and Health

- 803 KAR 2:301E. Adoption and extension of established federal standards.
- 803 KAR 2:306E. Occupational health and environmental control.
- 803 KAR 2:308E. Personal protective equipment.
- 803 KAR 2:320E. Air contaminants.
- 803 KAR 2:402E. General safety and health provisions.
- 803 KAR 2:403E. Occupational health and environmental controls.
- 803 KAR 2:404E. Personal protective and life saving equipment.
- 803 KAR 2:405E. Fire protection and prevention.
- 803 KAR 2:410E. Electrical.
- 803 KAR 2:411E. Scaffolds.
- 803 KAR 2:424E. Diving.
- 803 KAR 2:425E. Toxic and hazardous substances.
- 803 KAR 2:500E. Maritime employment.
- 803 KAR 2:900E. Repeal of 803 KAR 2:302.

Department of Workers Claims

- 803 KAR 25:010E. Procedure for adjustment of claims.
- 803 KAR 25:200E. Workers compensation notice.
- 803 KAR 25:210E. Affidavit of exemption from the Kentucky Workers' Compensation Act.
- 803 KAR 25:220E. Guaranty funds.
- 803 KAR 25:230E. Lessors of employees.

PUBLIC PROTECTION & REGULATION CABINET

Department of Insurance

Group and Blanket Health Insurance

- 806 KAR 18:080 & E. Association uniform data collection. (Amended After Hearing)

Department of Financial Institutions

Securities

- 808 KAR 10:225. Procedural regulation governing hearing and hearing related procedures for matters before the Department of Financial Institutions.

Kentucky Racing Commission

Harness Racing

- 811 KAR 1:215. Kentucky Standardbred Development Fund. (Public Hearing in March)

Department of Housing, Buildings and Construction

Office of the State Fire Marshal

- 815 KAR 25:040. Fire safety requirements in manufactured and mobile homes.

CABINET FOR HEALTH SERVICES

Long-Term Care

- 900 KAR 2:060. Hearings concerning transfer and discharge rights. (Amended After Hearing) (Deferred from February)

Certificate of Need

- 900 KAR 6:015E. Certificate of need matters. (Deferred from March)

Department for Public Health

Division of Epidemiology

- 902 KAR 2:020. Disease surveillance (Amended After Hearing)

Department for Health Services

State Health Plan

- 902 KAR 17:035E. State health plan for facilities and services. (Deferred from March)

Health Services and Facilities

- 902 KAR 20:016. Hospitals; operations and services. (Amended After Hearing) (Deferred from March)

Division of Environmental Health and Community Safety

Hazardous Substances

- 902 KAR 47:080 & E. Training and certification requirements for persons who perform lead-hazard detection or lead-hazard abatement.
- 902 KAR 47:090 & E. Accreditation of training programs and providers of educational programs for individuals who perform lead-hazard detection and abatement.
- 902 KAR 47:100 & E. Permit fees, permit requirements and procedures, and standards for performing lead-hazard detection and abatement.

CABINET FOR FAMILIES AND CHILDREN

Department for Social Insurance

Division of Management & Development

Public Assistance

- 904 KAR 2:006E. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
(See KRS Chapter 13A for specific provisions)

Notice of Intent

Administrative bodies shall file with the Regulations Compiler a Notice of Intent to promulgate an administrative regulation, including date, time and place of a public hearing on the subject matter to which the administrative regulation applies. This Notice of Intent, along with the public hearing information, shall be published in the Administrative Register. This Notice has to be filed and published in the Administrative Register, and the public hearing held or cancelled, prior to the filing of an administrative regulation.

After the scheduled hearing date, if held, the administrative body shall file with the Regulations Compiler a Statement of Consideration, setting forth a summary of the comments made at the public hearing, and the responses by the administrative body. This Statement shall not be published in the Administrative Register.

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 working (5) days before the scheduled hearing. If no written notice is received at least five (5) working 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 to 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.

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administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 7:30 a.m. and 5 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the administrative regulation relating to the subject matter listed above is KRS 322.290(2)(a).

(b) The administrative regulation that the Kentucky State Board of Registration for Professional Engineers and Land Surveyors intends to promulgate will not amend an existing regulation. It will serve to repeal 201 KAR 18:130.

(c) The necessity and function of the proposed administrative regulation is as follows: To repeal 201 KAR 18:130 which conflicts with 201 KAR 18:131.

(d) The benefit expected from administrative regulation is: The conflict between two (2) regulations will be eliminated.

(e) The administrative regulation will be implemented as follows: Once the existing administrative regulation is repealed, the repealing administrative regulation is no longer necessary and will not require implementation.

March 12, 1997

Kentucky State Board of Registration for Professional Engineers and Land Surveyors

(1) **201 KAR 18:150.** Standards of practice.

(2) The Kentucky State Board of Registration for Professional Engineers and Land Surveyors intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 1997, at 1 p.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Registration for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601.

(b) On request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 7:30 a.m. and 5 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the administrative regulation relating to the subject matter listed above is KRS 322.290(2)(f).

(b) The administrative regulation that the Kentucky State Board of Registration for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:150, Standards of practice.

(c) The necessity and function of the proposed administrative regulations is as follows: To promulgate standards of practice for land surveyors in Kentucky.

(d) The benefits expected from administrative regulation are: That the standards of practice for land surveyors will be codified.

(e) The administrative regulation will be implemented as follows: Registrants will be required to comply with the administrative regulations, and the Kentucky State Board of Registration for Professional Engineers and Land Surveyors will enforce the administrative regulation.

January 17, 1997

Kentucky State Board of Registration for Professional Engineers and Land Surveyors

(1) **201 KAR 18:162.** Repeal of 201 KAR 18:160.

(2) The Kentucky State Board of Registration for Professional Engineers and Land Surveyors intends to promulgate an administrative regulation governing the subject matter above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 1997, at 1 p.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Registration for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601.

(b) On request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 7:30 a.m. and 5 p.m., Monday through Friday.

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Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

(b) In a request for a public hearing, a person shall state:

1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request from the department at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025.

(b) The administrative regulations that the department intends to promulgate will amend:

1. 301 KAR 2:140 as follows: change the opening date of the fall archery season from October 1 to the third Saturday in September.
2. 301 KAR 2:251 as follows: extend the closing date of the squirrel season from December 31 to January 31.

3. 301 KAR 2:172 as follows:

a. Allow taking either sex deer during the youth hunt in Zone 5;

b. Change the opening date of the deer archery season from October 1 to the third Saturday in September;

c. Eliminate minimum caliber restrictions for muzzle-loading firearms;

4. 301 KAR 2:174 as follows: Change zone assignments for various counties based on deer population and deer management objectives;

5. 301 KAR 2:178 as follows:

a. Require the use of statewide deer tags on wildlife management areas, except for youth hunts;

b. Establish quota deer hunts on Clay, Lloyd, Kentucky River, Lapland, Mud Camp Creek, Mullins, and Tarter Wildlife Management Areas;

c. Change opening or closing dates and other requirements on selected wildlife management areas to meet deer harvest objectives.

(c) The necessity and function of the proposed administrative regulations are to establish season dates and hunting requirements for deer and small game species. KRS 150.025 authorizes the department to set season dates and other hunting regulations.

(d) The benefits expected from the administrative regulation are better management of Commonwealth's small game and deer resources and providing optimal recreational opportunity for Kentucky hunters.

(e) This administrative regulation will be implemented by publication in brochures and releases to media outlets, with enforcement primarily by the department's Division of Law Enforcement.

JUSTICE CABINET Department of Corrections

March 12, 1997

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:020**, Department of Corrections.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 1997, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:020, as follows:

1. Staff training and development (4.2) shall be totally revised to clarify and update the training requirements by categories of employment; to include subjects to the minimum training requirements for new correctional officers; revise the grading system and attendance; and, to eliminate nonexistent job positions.

2. Firearms and chemical agents training (4.3) shall be amended to update the references, to apply to employees who authorize use of these agents, to delete weapons which are no longer used and to comply with the drafting requirements of KRS Chapter 13A.

3. Use of force (9.1) shall be amended to:

- (a) Reflect the correct references;
- (b) Clarify the inclusion of the use of mechanical restraints;
- (c) Clarify the progressive levels of force, and
- (d) comply with drafting rules in KRS Chapter 13A.

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GRCC 06-01-01 Offender Records
GRCC 08-07-01 Natural Disaster - Earthquake
GRCC 09-05-01 Construction Crew Entry and Exit Guidelines
GRCC 09-08-01 Storage, Issue and Use of Chemical Weapons
GRCC 09-10-01 Emergency Release from Locked Areas
GRCC 11-08-01 Food Service: Purchasing, Storage and Farm Products

(c) The necessity and function of the proposed administrative regulation is as follows:

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

2. This administrative regulation updates operating procedures at the Green River Correctional Complex to comply with KRS Chapter 13A and to reflect current operating procedures.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.

(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

March 12, 1997

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 8:010**, Department of Corrections.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 1997, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 21, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 8:010, as follows: Execution hearings shall be amended to comply with the procedural requirements of KRS Chapter 13B.

(c) The necessity and function of the proposed administrative regulation is as follows:

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

2. This administrative regulation updates operating procedures at the Green River Correctional Complex to comply with KRS Chapter 13A and to reflect current operating procedures.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.

(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

TRANSPORTATION CABINET

April 1, 1997

Transportation Cabinet

(1) **600 KAR 1:120** and **600 KAR 1:071** relating to the use of state-owned motor vehicles.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation amending 600 KAR 1:120 relating to the purchase, use, lease, maintenance, and disposal of state-owned motor vehicles. In addition, the Transportation Cabinet intends to promulgate a new administrative regulation 600 KAR 1:071 to repeal existing regulation 600 KAR 1:070. This is being accomplished so that all of the provisions relating to the use of state-owned vehicles will be included in one administrative regulation.

(3) A public comment hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 22, 1997 at 9:30 a.m. local prevailing time, at 501 High Street, 4th Floor Hearing Room of the State Office Building, Frankfort, Kentucky 40622.

(4)(a) The public hearing will be held if:

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(8) If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by April 12, 1997. This request does not have to be in writing. This notice can be provided in an alternate format upon request.

Date: March 14, 1997

Transportation Cabinet

(1) **601 KAR 1:025**, Transportation of hazardous materials by air or highway.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation governing the transportation of hazardous materials within Kentucky. The administrative regulation will adopt the latest changes to the federal hazardous materials regulations that have been published in the "Federal Register".

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 22, 1997 at 9 a.m. local prevailing time, at 501 High Street, 4th Floor Hearing/Conference Room of the State Office Building, Frankfort, Kentucky 40622.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sandra Pullen Davis, 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Transportation Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 174.410(2), 174.430(1), 49 CFR Parts 130, 171-180.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: 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 Cabinet for Health Services (formerly 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 relating to the transportation of hazardous material by air or highway. Further, the U.S. Department of Transportation requires that each state enforce the federal requirements. This administrative regulation adopts the federal regulations relating to the transportation of hazardous materials.

(d) The benefit expected from this administrative regulation is consistency with the federal requirements for the transportation of hazardous materials.

(8) If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by April 12, 1997. This request does not have to be in writing. This notice can be provided in an alternate format upon request.

April 1, 1997

Transportation Cabinet

(1) **601 KAR 13:110**, State traffic school.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation related to driver training requirements of young persons, commonly called, "The Graduated Driver Licensing State Traffic School".

(3) A public hearing to receive oral and written comments on this proposed administrative regulation has been scheduled for April 22, 1997 at 11 a.m. local prevailing time, at 501 High Street, 4th Floor Hearing Room of the State Office Building, Frankfort, Kentucky 40622.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 22, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sandra Pullen Davis, 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Transportation Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is: 601 KAR 13:110 is KRS 186.400.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend existing administrative regulation 601 KAR 13:110 to remove the training requirement for driving school instructors and reevaluating the specific curriculum items.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 186.400(1) authorizes the Transportation Cabinet to promulgate administrative regulations regarding the licensing of a motor vehicle operator. This administrative regulation establishes the minimum standards for a new driver state traffic school.

(d) The benefit expected from this administrative regulation is a new look at the curriculum requirements as suggested at the March 4, 1997, Interim Joint Transportation Committee meeting and the removal of a training requirement inadvertently left in the administrative regulation.

ADMINISTRATIVE REGISTER - 3521

implemented by the Education Professional Standards Board. The use of extant teaching prior to completing the professional education portion of the teacher education program will be eliminated. The use of correspondence credits in professional education courses precludes the inclusion and monitoring of classroom observations within teacher education programs.

(d) The benefits expected from administrative regulation are:

1. The number and volume of regulations for accrediting teacher education institutions and approving teacher education programs will decrease.

2. Regulations relating to the approval of teacher education programs will be simplified and consolidated for ease of use.

(e) The administrative regulation will be implemented as follows: Each institution of higher education having accredited teacher education programs will be copied with this regulation and required to forward an acknowledgement of receipt. Staff will be available on request, to respond to specific questions relating to the regulation.

March 10, 1997

Education Professional Standards Board

(1) **704 KAR 20:696.** Standards for accreditation of teacher education units and approval of programs.

(2) The Education Professional Standards Board intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 25, 1997, at 10 a.m. at the 1st Floor Capital Plaza Tower, Conference Room, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to April 25, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, fax (502) 573-1610.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the accreditation of teacher education units and program approval are in KRS 161.028, 161.032 and 161.042.

(b) The administrative regulation that the Education Professional Standards Board intends to promulgate is 704 KAR 20:696.

(c) The necessity, function, and conformity section of the proposed administrative regulation is as follows: KRS 161.028 requires that all teacher education institutions be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board. KRS 161.030 requires that certificates be issued to all persons who have completed programs approved by the Education Professional Standards Board. This administrative regulation establishes the standards for accreditation of teacher education units and approval of programs to prepare educators.

(d) The benefits expected from administrative regulation are: Twenty-six institutions of higher education in Kentucky will have up to date standards for retaining their current accreditation. New standards for accreditation make it necessary to promulgate the regulation. Institutions will be systematically moving to performance based teacher educations through this regulation.

(e) The administrative regulation will be implemented as follows: Each institution of higher education having accredited teacher education programs will be copied with this regulation and be required to forward an acknowledgement of receipt. Staff will be available on request to respond to specific questions relating to the regulation.

March 10, 1997

Education Professional Standards Board

(1) **704 KAR 20:706.** Admission, placement, and supervision in student teaching.

(2) The Education Professional Standards Board intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 25, 1997, at 10 a.m. at the 1st Floor Capital Plaza Tower, Conference Room, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to April 25, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, fax (502) 573-1610.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

ADMINISTRATIVE REGISTER - 3523

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 30, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Beverly Haverstock, General Counsel, Office of General Counsel, Workforce Development Cabinet, 2nd Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-6606.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Workforce Development Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 341.270.

(b) The administrative regulation that the Workforce Development Cabinet intends to promulgate will amend 787 KAR 1:210, Employer contribution rates. It will set the unemployment insurance tax rate schedule that is in effect for calendar year 1997.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 341.270 requires the Secretary for Workforce Development to determine the rate schedule for employers' contributions. The rate schedule in effect for each calendar year shall be determined by the "trust fund balance" as of December 31 of the preceding year. This administrative regulation applies the mathematical computation required by KRS 341.270 and sets forth the applicable rates to be in effect for the calendar year.

(d) The benefit expected from this administrative regulation is: Setting of the 1997 tax rate schedule for appropriate assignment of applicable employer contribution rates for unemployment insurance.

(e) The administrative regulation will be implemented as follows: 1997 employer contribution rates for payment of unemployment insurance taxes will be calculated by the application of the mathematical computation required by KRS 341.270 using Schedule A of Table A. There will be no new impact on employers as Schedule A of Table A was previously used for determining tax rates in 1996.

KENTUCKY LABOR CABINET

March 14, 1997

Kentucky Labor Cabinet

(1) Regulation and Title: **803 KAR 1:035**. Hearing procedure.

(2) The Kentucky Labor Cabinet intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Friday, April 25, 1997, at 10 a.m., in the Kentucky Labor Cabinet, Bay 3 Conference Room, 1047 U.S. 127 South, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 25, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Dennis Langford, Director, Division of Employment Standards, Apprenticeship and Training, Kentucky Labor Cabinet, 1047 U.S. 127 South, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing." or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Labor Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation regarding the subject matter of administrative hearings in wage and hour disputes is KRS Chapters 13A and 13B, and KRS 337.295.

(b) The administrative regulation that the Kentucky Labor Cabinet intends to promulgate will amend 803 KAR 1:035, entitled Hearing procedure. The amendment will revise the administrative hearing procedure to comport with the provisions of KRS Chapter 13B.

(c) The necessity and function of the proposed administrative regulation is: The Kentucky Labor Cabinet's administrative procedure in wage and hour cases pursuant to KRS Chapter 337 needs to be revised to reflect that hearings shall be held according to the provisions of KRS Chapter 13B.

(d) The benefits expected from the administrative regulation are: These changes will give notice to the public that hearing procedures in wage and hour cases shall be conducted in conformity with KRS Chapter 13B.

(e) The administrative regulation will be implemented as follows: The hearing officers employed by the Kentucky Labor Cabinet will enforce the hearing procedure outlined in the amended administrative regulation and in KRS Chapter 13B. In addition, personnel in the Division of Employment Standards, Apprenticeship and Training will notify individuals during the investigative process regarding the changes in the administrative hearing process.

ADMINISTRATIVE REGISTER - 3525

KRS 30.2-110 and 304.38-080.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will set forth requirements for open enrollment periods for health maintenance organizations.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.38-080 requires an open enrollment period be held by health maintenance organizations. The administrative regulation sets forth specific requirements for the open enrollment. It is necessary to have the specific requirements to assist consumers in the individual health insurance market.

(d) The benefits expected from the administrative regulation are: All health maintenance organizations will have the same enrollment period. Consumers will be better informed and be assured of more options than the limited number of companies offering through the alliance.

(e) The administrative regulation will be implemented as follows: Health maintenance organizations will file requests for limits of capacity and advertising to the commissioner. Advertisements will be run in newspapers to alert consumers. Open enrollment will run from May 1 through May 30. Then each company will report to the department the number of enrollees obtained during the enrollment period.

CABINET FOR HEALTH SERVICES Office of Inspector General

March 3, 1997

Cabinet for Health Services

Office of Inspector General

(1) **902 KAR 20:026** - Operations and services; skilled nursing facilities.

(2) The Office of Inspector General intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1997, at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 30, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Administrative Specialist Principal, Office of the Counsel, Cabinet for Health Services, 275 East Main Street, 4-West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, Fax: (502) 564-7573.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Office of Inspector General, CHR Building, 4-East, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of all of the administrative regulations relating to health facilities and health services is KRS 216B.042 and 216B.105. The prescription of drugs and medicine by advanced registered nurse practitioners is pursuant to KRS 314.011(8) and 314.042(8). The prescription of drugs by therapeutically-certified optometrists is pursuant to KRS 320.240(14).

(b) The cabinet intends to amend 902 KAR 20:026 at Section 3(10)(a)3 and 6 and Section 4(5)(f)1 to address the prescriptive authority of advanced registered nurse practitioners and therapeutically-certified optometrists. Section 3(7) will be amended to refer to the requirements of 902 KAR 2:050 regarding the transfer or discharge of residents. Section 4(5)(f)4 will be amended regarding the use of restraints or protective devices. Other amendments will delete references to the Cabinet for Human Resources and will refer to the Cabinet for Health Services in accordance with Executive Order 96-862, and will comply with drafting requirements of KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To comply with the mandate of KRS 216B.042 and 216B.105 in the establishment of licensure requirements for the operation of skilled nursing facilities.

(d) The benefits expected from these proposed amendments are that they will permit other categories of health professionals to perform tasks presently restricted to physicians and dentists by the existing regulations. Other amendments will update regulatory requirements regarding the use of restraints or protective devices.

(e) The administrative regulation will be implemented as follows: By the Division of Licensing and Regulation in the Office of Inspector General, Cabinet for Health Services.

March 3, 1997

Cabinet for Health Services

Office of Inspector General

(1) **902 KAR 20:036** - Operation and services; personal care homes.

(2) The Office of Inspector General intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1997, at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

ADMINISTRATIVE REGISTER - 3527

(a) The statutory authority for the promulgation of an administrative regulation relating to the program is KRS 194.050 and Executive Order 96-862, which reorganizes the Cabinet for Human Resources and places the Department for Social Insurance and its programs under the Cabinet for Families and Children.

(b) The administrative regulation that the Department for Social Insurance intends to promulgate is a proposed amendment to administrative regulation, 904 KAR 3:020. The proposed administrative regulation implements the food stamp financial requirements that are mandated by PL 104-193 mandates that states implement PL 104-193, sections 807 (7 USC 2014(d)), 808 (7 USC 2014(d)), 809 (7 USC 2014(e)(2) and 2014(e)(5)), 810 (7 USC 2014(g)), 829 and 911 (7 USC 2017). Federal regulations at 7 CFR 273.8 and 7 CFR 273.9 that were published as final on October 17, 1997, must be implemented by March 1, 1997.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the financial eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

(d) The benefits expected from administrative regulation are: This administrative regulation will prevent a loss of federal funds by timely implementing the requirements mandated by PL 104-193 and final federal regulations.

February 21, 1997

Cabinet for Families and Children

Department for Social Insurance

Division of Management and Development

(1) **904 KAR 3:042**, Food Stamp Employment and Training Program.

(2) Cabinet for Families and Children, Department for Social Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1997 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 30, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy H. Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (fax).

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Social Insurance, Division of Management and Development, Third Floor West, CHR Building, 275 East Main, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the program is KRS 194.050 and Executive Order 96-862, which reorganizes the Cabinet for Human Resources and places the Department for Social Insurance and its programs under the Cabinet for Families and Children.

(b) The administrative regulation that the Department for Social Insurance intends to promulgate is a proposed amendment to administrative regulation, 904 KAR 3:042. The proposed administrative regulation implements the Food Stamp Employment and Training Program requirements that are mandated by 7 USC 2015(d), as mandated by PL 104-193, section 815. The proposed administrative regulation also implements the Community Service Program and the Work Experience Program that allows individuals who are subject to the work requirement pursuant to 7 USC 2015(o), as mandated by PL 104-193, section 824, to satisfy the work requirement by performing a minimum number of work hours per month.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the technical eligibility requirements used by the cabinet in the administration of the Food Stamp Employment and Training Program, including the Work Experience Program component, and the requirements of the Community Service Program.

(d) The benefits expected from administrative regulation are: This administrative regulation will prevent a loss of federal funds by timely implementing the requirements mandated 7 USC 2015(d), as amended by PL 104-193, section 815. The administrative regulation also prevents individuals who are subject to the work requirement pursuant to 7 USC 2015(o), as amended by PL 104-193, section 824, and cannot find a job from being limited to three (3) months of food stamp eligibility out of a three (3) year period. Unless the Community Service Program and the Work Experience Program are implemented, these individuals will be deprived of the opportunity for a nutritious diet, thereby presenting an imminent threat to the public health and welfare.

Department for Social Services

March 14, 1997

Cabinet for Families and Children

Department for Social Services

(1) **905 KAR 2:150**, Child day care assistance program.

(2) The Department for Social Services intends to promulgate the administrative regulation cited above.

ADMINISTRATIVE REGISTER - 3529

Licensed or certified non-traditional care providers may be paid an additional \$1 per day, if the general public is charged at least that amount. Weekly maximums have been dropped, full-day and part-day have been defined with part-day rates being capped at approximately 60% of the full-day rate.

Payment Policies: In order to serve more families, the following payment policies have been proposed: Payments shall be made on an enrollment basis, with the cabinet or designee enrolling children only for the amount of child care needed. Up to five excused absences per month shall be allowed. Supervisors may authorize payments beyond the five days for special circumstances.

Payments shall only be made for part-time arrangements for those needing only part-time care unless part-time is not available.

No payment for private kindergarten unless public kindergarten hours does not permit the parent to work or participate in K-TAP.

Payments not made when PELL grants are available and is sufficient to cover child care.

Families are not eligible for subsidies when free public preschool or child development programs are available and accessible. e.g. Head Start, state preschool, PACE.

Sliding Fee Scale: No co-pays for families below 40% of poverty.

For families with income from 41% of poverty to 125% of poverty the co-pays are 9% for families with one child and 11% for families with two or more children.

For families with income from 126% of poverty to the last income level the co-pays are 11% for families with one child and 13% for families with two or more children. The last income level will have the co-pays at 13% for one child and 15% for families with two or more children.

The fees for families at upper income levels approach the maximum payment rate for one child. Families will gradually increase their payments rather than experiencing a large increase when their eligibility for subsidy ends.

CABINET FOR HEALTH SERVICES Department for Medicaid Services

March 15, 1997

Cabinet for Health Services

Department for Medicaid Services

(1) **907 KAR 1:034**, Early and periodic screening, diagnosis and treatment; **907 KAR 1:035**, Payment for screening service.

(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1997 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 30, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Administrative Specialist, Principal, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (Fax).

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 907 KAR 1:034 are KRS 194.050, 42 USC 1396d, 42 CFR 441.50 through 441.62 and EO 96-862. The statutory authority for the promulgation of an administrative regulation relating to 1:035 are KRS 194.050, 42 CFR 440.40(b), 42 CFR 447, Subpart B, and 42 USC 1396a,b,d.

(b) The administrative regulations that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:034, Early and periodic screening, diagnosis and treatment and 907 KAR 1:035, Payment for screening services to increase reimbursement rates for EPSDT screening providers, update the periodicity schedule and its requirements in the EPSDT Manual in accordance with current medical standards and practices (American Academy of Pediatrics, Academy of Family Physicians, Advisory Council on Immunizations, Medicaid Dental Technical Advisory Committee), update the EPSDT manual in accordance with KRS Chapter 13A, and make minor policy clarifications as needed.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: Administrative regulation 907 KAR 1:034 sets forth the provisions relating to the early and periodic screening, diagnosis and treatment services for which payment shall be made by the Medicaid Program in behalf of both categorically needy and medically needy children under age twenty-one and administrative regulation 907 KAR 1:035 sets forth the provisions relating to the payments for screening services for the method for determining the amounts payable by the cabinet for screening services.

(d) The benefits expected from administrative regulation are: An increase in the number of EPSDT screenings for children, an increase in the access to EPSDT services and improvement in the continuity of care for children.

ADMINISTRATIVE REGISTER - 3531

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 907 KAR 1:270 are KRS 194.050, EO 96-862 and KRS Chapter 13A.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:270, Podiatry services to include the incorporation of the new Podiatry Program Manual, make program coverage changes, and to make minor policy clarifications to comply with EO 96-862 and KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the incorporation of the new podiatry manual and program coverage changes.

(d) The benefits expected from administrative regulation are: Increased access to podiatry services for Kentucky Medicaid recipients.

March 15, 1997

Cabinet for Health Services

Department for Medicaid Services

(1) **907 KAR 1:280**, Payments for podiatry services.

(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1997 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 30, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Administrative Specialist Principal, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (Fax).

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 907 KAR 1:280 are KRS 194.050, EO 96-862 and KRS Chapter 13A.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:280, Payments for podiatry services to implement a new payment methodology and make program coverage changes for the podiatry program.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the new payment methodology relating to the podiatry program.

(d) The benefits expected from administrative regulation are: Increased access to podiatry services for Kentucky Medicaid recipients.

March 15, 1997

Cabinet for Health Services

Department for Medicaid Services

(1) **907 KAR 1:413**, Repeal of 907 KAR 1:412.

(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1997 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

(NOTE: Emergency administrative regulations expire 170 days from publication or upon replacement, repeal, or withdrawal)

STATEMENT OF EMERGENCY
101 KAR 3:045E

This emergency administrative regulation amends 101 KAR 3:045, Compensation plan and compensation incentive systems to create a severance award program for federally-funded, time-limited employees in the unclassified service of the executive branch of state government whose positions are entirely federally funded and whose positions are being abolished due to the termination or elimination of the federal program in which they are employed. The severance package which is implemented by this emergency administrative regulation is entirely financed by federal funds which have been allocated for the specific purpose of providing "mustering out" pay to state employees whose jobs are being eliminated due to the termination of the federal program or project. There is currently no legal authority by which the money that the federal government has made available for this purpose can be passed through to this group of employees. Unless this administrative regulation is implemented as an emergency measure, the federal funds that have been allocated for this purpose will be lost to the state and its employees. This emergency administrative regulation shall not be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
 ROBERT S. PETERS, Secretary

PERSONNEL CABINET

101 KAR 3:045E. Compensation plan and compensation incentive systems.

RELATES TO: KRS 18A.155

STATUTORY AUTHORITY: KRS 18A.155(1)(b)

EFFECTIVE: February 28, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Secretary [Commissioner] of Personnel to submit to the Governor proposed administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v).

Section 1. Classification Plan. The principles and provisions of 101 KAR 2:020 shall apply to positions in the unclassified service.

Section 2. Compensation Plan. (1) With the exception of the provisions of Section 3 of this administrative regulation relating to probationary increments, the principles and provisions of 101 KAR 2:036 shall apply to employees and positions in the unclassified service. An employee in the unclassified service who completes the initial six (6) month period following appointment with satisfactory performance may be granted a statutory increment at the beginning of the month following completion of such period.

(a) An employee who was eligible for but did not receive a five (5) percent salary advancement as the result of any of the following actions: promotional increase, reallocation, or class grade changes, on or after January 3, 1986, may have his salary adjusted upon request by the appointing authority and approval by the secretary [commissioner]. In no case may the salary adjustment be made retroactive to the original effective date but shall be granted on the first of the month following approval of the increase.

(b) Inasmuch as the appointing authority has the option of not providing salary increases under this section, an eligible employee

whose salary is not adjusted is not considered to have been penalized and therefore shall have no basis for appeal.

(c) An appointing authority, with the approval of the secretary [commissioner], may grant a salary adjustment, equivalent to the budgeted annual increment for classified employees, to seasonal, temporary, FFTL and other unclassified employees who have completed twelve (12) months total full-time employment in the classified or unclassified service without a salary increase. The salary adjustment, if granted, shall be effective on the first day of the month following approval of the increase.

(2) Physicians, employed as such and pursuant to KRS 64.655, shall be exempt from the provisions of 101 KAR 2:036, Section 1, and may be appointed to any rate within the pay range when justified in writing by the appointing authority and approved by the secretary [commissioner].

Section 3. Severance Award Program. A program to establish a severance plan for federally-funded time-limited employees whose employment is terminated based on the expiration of a federal grant, program or agreement is established by this section.

(1) A federally-funded time-limited employee who is employed under a program or project which is entirely federally-funded shall be eligible for a severance award based on months of service upon termination of his employment and the program or project if the employee is not under investigation for allegations of poor work performance or misconduct which could lead to disciplinary action; and

(2) The severance award shall be paid in a lump sum based on the employee's hourly rate at the time of the termination.

(3) The amount of the severance award shall be based on:

(a) The number of months of service the employee has had with the program or project being terminated; and

(b) A schedule to be agreed upon between the agency and the Secretary of the Personnel Cabinet that is consistent with the federal funding available.

Section 4. Educational Achievement Award. Upon request of the appointing authority and subject to the approval of the secretary [commissioner]:

(1) An employee may receive one (1) lump sum educational achievement award per fiscal year for satisfactorily completing outside of work hours, 260 classroom hours (or the equivalent as determined by the secretary [commissioner]) of job related instruction in approved courses. Approved courses must have been completed after an employee initially served six (6) months in state government. Employees shall not receive credit for hours taken while on educational leave, for hours paid for by the agency through tuition assistance, or for hours which previously counted toward an educational achievement award. The lump sum educational achievement award shall be ten (10) percent of the employee's annual base salary but not more than \$2,500. The lump sum payment shall be granted only if the 260 classroom hours (or equivalent) have been completed within the past five (5) years prior to the effective date of the increase; or

(2) An employee may receive one (1) lump sum educational achievement award for earning an approved diploma, high school equivalency certificate, or a passing score on the GED test. The approved high school diploma, certificate, or passing score shall have been obtained by the state employee on or after January 1, 1984 while in state service. Employees receiving an approved high school

losing their jobs based on such closures.

**STATEMENT OF EMERGENCY
301 KAR 3:022E**

This emergency amendment extends the period of validity of 1996 waterfowl permits from February 28, 1997 to March 10, 1997. An ordinary administrative regulation is not sufficient because unforeseen delays in reprogramming the department's automated license sale system to meet federal requirements for collecting harvest information from migratory bird hunters will delay availability of 1997 waterfowl permits until April 1997. Waterfowl permits normally expire after February 28, but a portion of the 1996-97 waterfowl season runs through March 10, 1997. This emergency amendment to 301 KAR 3:022, by extending the validity of 1996 permit, will allow waterfowl hunters to hunt legally during the March portion of the current waterfowl season. An ordinary administrative regulation will not be filed with the Regulations Compiler because this is a temporary measure to address a nonrecurring problem.

PAUL E. PATTON, Governor
C. THOMAS BENNETT, Commissioner

**TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources**

301 KAR 3:022E. License, tag and permit fees.

RELATES TO: KRS 150.175, 150.195, 150.225, 150.235, 150.240, 150.280, 150.290, 150.485, 150.525, 150.603, 150.520, 150.660, 1996 Ky. Acts ch. 268

STATUTORY AUTHORITY: KRS 150.195(4)(f), 150.225

EFFECTIVE: February 21, 1997

WITHDRAWN: March 17, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.225 requires the department to prescribe reasonable license fees relating to hunting, fishing, and trapping. KRS 150.195(4)(f) requires the department to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. This administrative regulation establishes fees and terms for licenses and the expiration dates for the licenses.

Section 1. Licenses, tags, and permits listed in this section shall be valid from March 1 through the last day of February the following year, except that 1996 waterfowl permits shall be valid through March 10, 1997.

- (1) Sport fishing licenses:
 - (a) Statewide fishing license (resident): \$12.50.
 - (b) Statewide fishing license (nonresident): \$30.
 - (c) Joint statewide fishing license (resident): \$22.50.
 - (d) Trout permit (resident or nonresident): \$5.
- (2) Commercial fishing licenses:
 - (a) Commercial fishing license (resident) plus ten (10) resident commercial gear tags: \$100.
 - (b) Commercial fishing license (nonresident) plus ten (10) nonresident commercial gear tags: \$500.
 - (3) Commercial fishing gear tags (not to be sold singly):
 - (a) Commercial fishing gear tags (resident) block of 10 tags: \$10.
 - (b) Commercial fishing gear tags (nonresident) block of 10 tags: \$75.
 - (4) Hunting licenses:
 - (a) Statewide hunting license (resident): \$12.50.
 - (b) Statewide hunting license (nonresident): \$95.
 - (c) Statewide junior hunting license (resident or nonresident): \$6.25.
 - (d) Statewide waterfowl permit (resident or nonresident): \$7.50.

- (e) Migratory game bird permit (resident or nonresident): \$4.
- (5) Combination hunting and fishing license (resident): \$20.
- (6) Trapping licenses:
 - (a) Trapping license (resident): \$15.
 - (b) Trapping license (resident landowner/tenant): \$7.50.
 - (c) Trapping license (nonresident): \$115.
- (7) Big game permits:
 - (a) Big game permit, deer (resident or nonresident): \$21.
 - (b) Junior big game permit, deer (resident or nonresident): \$12.50.
 - (c) Big game permit, turkey (resident or nonresident): \$17.50.
 - (d) Big game permit, fall turkey (resident or nonresident): \$10.
 - (8) Peabody or Cyprus AMA-Robinson Forest individual permit: \$10.
 - (9) Commercial mussel licenses:
 - (a) Musseling license (resident): \$300.
 - (b) Musseling license (nonresident): \$1,500.
 - (c) Mussel buyer's license (resident): \$500.
 - (d) Mussel buyer's license (nonresident): \$1,500.

Section 2. Licenses, tags and permits, listed in this section shall be valid for the calendar year in which they are issued.

- (1) Live fish and bait dealer's licenses:
 - (a) Live fish and bait dealer's license (resident): \$30.
 - (b) Live fish and bait dealer's license (nonresident): \$60.
- (2) Commercial taxidermist license: \$100.
- (3) Commercial guide licenses:
 - (a) Commercial guide license (resident): \$100.
 - (b) Commercial guide license (nonresident): \$250.
- (4) Nonresident hunting preserve license: \$10.
- (5) Shooting preserve permit: \$100.
- (6) Commercial fox hound training enclosure permit: \$250.
- (7) Collecting permits:
 - (a) Educational wildlife collecting permit: \$10.
 - (b) Scientific wildlife collecting permit: \$200.
- (8) Food permits:
 - (a) Food permit for selling bobwhite quail from propagation farms only: \$150.
 - (b) Retail food permit for propagated quail: \$5.
- (9) Pay lake license:
 - (a) First two (2) acres or less: \$100.
 - (b) Per additional acre or part of acre: \$20.
- (10) Commercial wildlife pet and propagation permit: \$50.
- (11) Commercial fish propagation permit: \$50.

Section 3. Licenses, tags and permits listed in this section shall be valid for three (3) years from the date of issue.

- (1) Falconry permit: \$45.
- (2) Noncommercial wildlife pet and propagation permit: \$75.

Section 4. Licenses, tags and permits listed in this section shall be valid for the date or dates specified on each.

- (1) Short-term nonresident licenses:
 - (a) Three (3) day fishing license: \$12.50.
 - (b) Fifteen (15) day fishing license: \$20.
 - (c) Five (5) day hunting license (not valid for big game): \$27.50.
 - (d) Three (3) day fur bearer's license: \$40.
- (2) Wildlife transportation permit: \$25.
- (3) Special commercial fishing permit: \$500.
- (4) Commercial waterfowl shooting area permit: \$100.
- (5) Shoot to retrieve field trial permits:
 - (a) Per trial (maximum four (4) days): \$50.
 - (b) Single day: \$15.
- (6) Boat dock permits (per year): \$5.
- (7) Peabody or Cyprus AMAX-Robinson Forest event permit: \$25.

Section 5. Licenses, tags and permits listed in this section shall

emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation is being filed with the Regulations Compiler at the same time the emergency administrative regulation is being filed.

PAUL E. PATTON, Governor
E. DANIEL CHERRY, Secretary

JUSTICE CABINET
Department of Corrections

501 KAR 8:010E. Execution hearings. [Hearings, procedures, disposition-]

RELATES TO: KRS Chapters 196, 197, 431

STATUTORY AUTHORITY: KRS 196.035, 197.020, 431.240

EFFECTIVE: March 14, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 and 197.020 authorize the commissioner to promulgate administrative regulations for the proper administration of the department or any division therein. [The Secretary of the Kentucky Corrections Cabinet is authorized by KRS 196.035, 197.020 to adopt, amend or rescind administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein.]

Section 1. Definitions. (1) "Condemned person" means a person for whom a specific day of execution is fixed by a current mandate from the Kentucky Supreme Court or a current warrant signed by the Governor.

(2) "Insane" means the condemned person does not have the ability to understand:

- (a) He is about to be executed; and
- (b) Why he is to be executed.

Section 2. Petition for a Hearing. A condemned person or his attorney seeking to have a scheduled execution date stayed pursuant to KRS 431.240(2) based on an allegation the condemned person is insane may file a petition for an administrative hearing with the Warden of the Kentucky State Penitentiary or his deputy at the Kentucky State Penitentiary, Route 2, Box 128, Eddyville, Kentucky 42038-0128. The petition shall be filed at least seven (7) calendar days prior to the day fixed for execution, unless the warden permits a later filing for good cause shown. The petition shall:

- (1) Be in writing;
- (2) Allege with specificity grounds in support of a belief the condemned is insane;
- (3) Request a hearing; and
- (4) Be accompanied by at least one (1) affidavit setting forth facts known to the affiant which allegedly establish probable cause to believe the condemned person is insane.

Section 3. Warden's Consideration of Petition. Within twenty-four (24) hours after a petition is filed, the warden shall:

- (1) Deny the petition without a hearing if the petition and any affidavit does not establish probable cause to believe the condemned person is insane; or
- (2) Grant a hearing. A ruling denying the petition without a hearing pursuant to this section shall be the final order of the agency subject to judicial review.

Section 4. Notification of Warden's Ruling on Petition. The warden shall immediately notify the following of his decision to either deny the petition without a hearing or to grant a hearing:

- (1) The Governor;
- (2) The Attorney General;
- (3) Counsel for the condemned person; and

(4) The condemned person.

Section 5. Assignment and Conduct of Hearing. The provisions of KRS 13B.010-13B.170 shall govern a hearing granted by the warden pursuant to this administrative regulation. Those provisions are supplemented as follows:

- (1) The Attorney General of the Commonwealth of Kentucky shall be permitted to intervene as a matter of right.
- (2) The warden shall serve as the agency head.
- (3) The hearing shall be conducted by the hearing officer in the presence of the warden.

Section 6. Nothing in this administrative regulation shall be construed to limit the Governor of the Commonwealth or any court of this Commonwealth in the exercise of any powers they may have to act in any other manner under the law or Constitution of Kentucky. [Definitions: (1) "Secretary" means the Secretary of the Corrections Cabinet.

- (2) "Cabinet" means the Kentucky Corrections Cabinet.
- (3) "Hearing officer" means a hearing officer appointed by the secretary of the cabinet.
- (4) "Proceeding" means any proceeding before a hearing officer to determine competency for execution.
- (5) "Day" means a calendar day.
- (6) "Order" means the order of the hearing officer.
- (7) "Petitioner" means a condemned person who requests a hearing as to competency to be executed with a verified petition as described in Section 2 of this administrative regulation.
- (8) "Condemned person" means a person who has received a sentence of death.

Section 2. Petition for Competency to be Executed. Pursuant to KRS 431.240(2), if a condemned person files a petition for a competency to be executed hearing, said petition shall be filed within three (3) days after receipt of the execution warrant with the warden of the Kentucky State Penitentiary or his deputy at the Kentucky State Penitentiary, Route 2, Box 128, Eddyville, Kentucky 42038-0128. Said petition shall be in writing, shall state the grounds for the belief that the condemned person is not competent to be executed, and shall request a competency to be executed hearing. The petition must be accompanied with a written certification from psychiatrist and psychologist duly licensed in the Commonwealth of Kentucky verifying that said petitioner does not have the mental capacity to understand the nature of the death penalty and why it is to be imposed upon him. No hearing will be scheduled or granted without the filing of the certificate by the licensed psychiatrist and psychologist.

Section 3. Assignment of Hearing; Filings. (1) Once a Petition for Competency to be Executed is filed with the warden, the Secretary of the Corrections Cabinet will assign a hearing officer to conduct a hearing and issue a Findings of Fact, Conclusions of Law and Order. Cases may be withdrawn by agreement of the parties, dismissed for cause, or otherwise disposed of before hearing in the discretion and judgment of the hearing officer.

(2) An adjudication by the hearing officer, if dismissed or disposed of as provided in subsection (1) of this section, shall become the final order of the hearing officer under the provision of KRS 431.240 and immediately appealable to the Supreme Court within two (2) days from the date of the issue.

(3) Subsequent to the assignment of the case to a hearing officer and prior to the issuance of any decision, all papers or pleadings shall be filed with the hearing officer and the parties prior to the issuance of any decision at the address given in the notice of hearing.

(4) All evidence and witnesses of both parties and all proof must be presented at the time of hearing. No additional evidence will be permitted thereafter except in unusual circumstances and within the discretion of the hearing officer. No subpoenas will be issued.

whom the matter was heard. The hearing officer shall promptly serve notice upon each of the parties of such filing. Participants desiring copies of such video tapes may obtain the same from the official reporter upon payment of fees fixed therefor.

Section 20. Duties and Powers of Hearing Officers. It shall be the duty of the hearing officer to conduct a fair and impartial hearing, to assure that the facts are fully elicited, to adjudicate all issues and avoid delay. The purpose of the hearing is to determine whether the petitioner does not have the mental capacity to understand the nature of the death penalty and why it is to be imposed on him, as pled in the petition. The hearing officer shall have authority with respect to cases assigned to him between the time he is designated and the time he issues his decision, subject to the rules and administrative regulations of the cabinet; to:

- (1) Administer oaths and affirmations;
- (2) Rule upon offers of proof and receive relevant evidence;
- (3) Regulate the course of the hearing and, if appropriate or necessary, exclude persons or counsel from the hearing for contemptuous conduct and strike all related testimony of witnesses refusing to answer any proper questions;
- (4) Hold conferences for the settlement or simplification of the issues;
- (5) Dispose of procedural requests or similar matters, also to dismiss petition or portions thereof, and to order hearings reopened prior to issuance of this final decision;
- (6) Examine witnesses and to introduce into the record documentary or other evidence;
- (7) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;
- (8) Adjourn the hearing as the needs of justice and good administration require; and
- (9) Take any other action necessary under the foregoing and authorized by the published rules and administrative regulations of the cabinet.

Section 21. Exhibits. (1) All exhibits offered in evidence shall be numbered and marked with a designation identifying the party or intervenor by whom the exhibit is offered.

(2) In the absence of objection by another party exhibits shall be admitted into evidence as a part of the record, unless excluded by the hearing officer pursuant to Section 25 of this administrative regulation.

(3) Unless the hearing officer finds it impractical, a copy of each such exhibit shall be given to the other parties.

(4) All exhibits offered, but denied admission into evidence, shall be identified as in subsection (1) of this section and shall be placed in a separate file designed for rejected exhibits.

Section 22. Burden of Proof. In all proceedings commenced by the filing of a petition for a hearing, the burden of proof shall rest with the petitioner. Petitioner must establish by substantial evidence that the condemned person with an established execution date does not understand the nature of the death penalty and why it is to be imposed upon him.

Section 23. Objections. (1) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence or a ruling of the hearing officer, may be stated orally or in writing, accompanied by a short statement of the grounds for the objection, and shall be included in the record. No such objection shall be deemed waived by further participation in the hearing.

(2) Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record of the proceeding.

Section 24. Final Order. The decision of the hearing officer shall

be issued within three (3) days of the hearing and shall include findings of fact, conclusions of law, and an order disposing of all issues before him.

Section 25. If the hearing officer determines that the prisoner is not mentally competent to be executed the warden will notify the governor and the governor shall stay the execution and order the Corrections Cabinet to continue to monitor the condemned person. Within six (6) months of a determination that the condemned person is not competent to be executed a rehearing will be conducted to determine whether or not the condemned person is competent to be executed. Said hearing will be conducted in the same manner and under the same conditions as provided in these administrative regulations.

Section 26. If at the second competency to be executed hearing it is determined by the hearing officer that the condemned person is competent to be executed, the order shall be forwarded by the warden and secretary to the governor who will then issue the appropriate warrants for execution.]

E. DANIEL CHERRY, Secretary

APPROVED BY AGENCY: March 12, 1997

FILED WITH LRC: March 14, 1997 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 2,948 employees of the correctional institutions, 8,729 inmates, 14,211 parolees and probationers, and all visitors to state correctional institutions.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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: Policy revisions.

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds budgeted for this 1996-1998 biennium.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

- (b) Kentucky: None
- (7) Assessment of alternative methods; reasons why alternatives were rejected: None
- (8) Assessment of expected benefits: Not applicable.
- (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
- (b) State whether a detrimental effect on environment and public health would result if not implemented: None
- (c) If detrimental effect would result, explain detrimental effect: None
- (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
- (a) Necessity or proposed regulation if in conflict: None
- (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
- (10) Any additional information or comments: None
- (11) TIERING: Is tiering applied? Tiering was not applied because all taxpaying employers are treated equally.

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
2. State what unit, part or division of local government this administrative regulation will affect. Either all or part of a local government could be affected. Entities such as county health departments, water districts, libraries, etc., could be affected based upon their independent exercise of unemployment reporting options.
3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation affects the unemployment tax assessed based on the payroll of those local governments which have elected to make quarterly unemployment tax payments.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-):
Expenditures (+/-):
Other Explanation: The great majority of local governments have elected to reimburse any unemployment benefits attributable to their employment. However, approximately 700 governmental entities have elected to pay quarterly unemployment taxes. By specifying the tax rate schedule in effect for 1997, this regulation determines in part the amount of tax which will be due from these tax paying entities. The tax rate schedule set forth in this regulation remains the same as the previous year.

STATEMENT OF EMERGENCY 806 KAR 38:090E

This emergency administrative regulation sets forth the requirements for open enrollment by health maintenance organizations which is required by KRS 304.38-080(3). The department views the current individual health insurance market as a serious problem. Due to the limited number of options for individual health insurance and changes in health insurance laws, the department believes that it is imperative to set forth specific guidelines for an open enrollment period for individual health insurance. This emergency administrative regulation puts these guidelines in place as soon as possible to assist those individuals seeking more options in the individual health insurance market. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is to be filed at a later date.

PAUL E. PATTON, Governor
LAURA M. DOUGLAS, Secretary
GEORGE NICHOLS, III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 38:090E. Open enrollment.

RELATES TO: KRS 304.38-080(3)
STATUTORY AUTHORITY: KRS 304.38-080, 304.38-150
EFFECTIVE: March 11, 1997
NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 304.38-150, the commissioner may promulgate reasonable administrative regulations necessary for the proper administration of KRS Chapter 304 Subtitle 38. Health maintenance organizations are required to have an open enrollment period pursuant to KRS 304.38-080(3). This administrative regulation sets forth the procedures and requirements for the open enrollment period.

Section 1. (1) All health maintenance organizations which do not continually offer health benefit plans to individuals shall have an open enrollment period beginning May 1 through May 30 for individual health insurance.

(2) The policies issued through open enrollment shall have a July 1 effective date.

(3) Health maintenance organizations shall make available the basic health benefit plan pursuant to KRS 304.17A-160 during open enrollment. Other standard health benefit plans may be made available during open enrollment.

(4) Health maintenance organizations shall conduct open enrollment in the service area utilized for exclusive health maintenance organization group benefit plans. Other standard health benefit plans may be offered in their approved service areas.

(5) New rates may be approved by the commissioner for use by the health maintenance organizations exclusively for the health benefit plans sold during the open enrollment period.

Section 2. (1) If a health maintenance organization determines limits of capacity, the health maintenance organization shall submit its proposed limitations to the commissioner for authorization.

(2) The proposed limits of capacity shall be submitted to the department with supporting justification no later than March 15 prior to the open enrollment period for which authorization is requested.

Section 3. (1) Health maintenance organizations shall provide adequate public notice in accordance with this section.

(2) A public notice of open enrollment shall be published in at least two (2) daily newspapers of general circulation in each county of the health maintenance organization's service area, at least once in each of the two (2) weeks immediately preceding the month of open enrollment and in each week of the month of open enrollment. The notice published the last week of open enrollment shall appear no less than four (4) days before the end of the open enrollment period.

(3) The public notice shall be a display advertisement and shall be at least four (4) inches wide and six (6) inches deep.

(4) The following information shall be included in the public notice:

(a) The dates that the open enrollment period will be held and the date when coverage will become effective;

(b) The address where an individual may obtain an application;

(c) The telephone number that an individual may call to request an application, or to ask questions, or to obtain a premium quotation;

(d) The date the first premium is due;

(e) Any limits of capacity;

(f) A list of health benefit plans by product type and plan design; and

1997. The federal regulation clarifies that educational loans on which repayment must begin within sixty (60) days after receipt shall not be excluded. Also, dependent care costs that exceed the amount excludable from student income shall be allowed as a deduction from the student's other income. It is necessary to promulgate this emergency administrative regulation to implement changes in food stamp policy that were mandated by PL 104-193, as shown in this statement of emergency. The amendments became effective with the enactment of PL 104-193 which was signed into law and is now in effect. This emergency administrative regulation is necessary to comply with the deadline set by federal law and to prevent a loss of federal funds. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice Of Intent for the ordinary administrative regulation is being filed concurrently with the emergency administrative regulation.

PAUL E. PATTON, Governor
VIOLA P. MILLER, Secretary

CABINET FOR FAMILIES AND CHILDREN
Department for Social Insurance
Division of Management and Development

904 KAR 3:020E. Financial requirements.

RELATES TO: KRS 194.050, 7 CFR 273.1, 273.2, 273.8, 273.9, 273.10, 273.11, 7 USC 2014, 2017(d), PL 104-193, sec. 911

STATUTORY AUTHORITY: KRS 194.050, 7 CFR 271.4, EO 96-862

EFFECTIVE: February 27, 1997

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children. The Cabinet for Families and Children has responsibility to administer a Food Stamp Program. KRS 194.050 provides that the secretary shall, by administrative regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This administrative regulation sets forth the financial eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Financial Eligibility Requirements. (1) Pursuant to federal (in accordance with) regulations promulgated by the Food and Consumer Service, of the United States Department of Agriculture, national uniform standards of financial eligibility for the Food Stamp Program shall be composed of the following criteria:

- (a) Income limitations; and
- (b) Resource limitations.

(2) Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.

(3) The income eligibility standards shall be derived from the Office of Management and Budget's nonfarm income poverty guidelines.

Section 2. Countable Income. All income from any source shall be counted, except income specifically excluded in Section 3 of this administrative regulation, including:

(1) Wages earned by a household member, including all wages received by a striker in accordance with the provision at 904 KAR 3:035, Section 5 [6](9).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business;

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements;

(4) Payments under 42 USC 1451 shall be considered earned income unless specifically excluded in Section 3 of this administrative regulation;

(5) The earned or unearned income of an eligible household member or nonhousehold member pursuant to [as set forth in] 904 KAR 3:035, Section 5 [6](3) and 4;

(6) Assistance payments from federal or federally aided public assistance including:

(a) Supplemental security income;

(b) Kentucky Transitional Assistance Program [Aid to families with dependent children];

(c) General assistance programs; or

(d) Other assistance programs based on need;

(7) Annuities;

(8) Pensions;

(9) Retirement, veteran's or disability benefits;

(10) Worker's or unemployment compensation;

(11) Strike pay;

(12) Old-age survivors or Social Security benefits;

(13) Foster care payments for children or adults, except as excluded in Section 3(16) of this administrative regulation;

(14) Gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week;

(15) Wages earned by a household member which are garnished or diverted by an employer and paid to a third party for a household expense;

(16) Support or alimony payments made directly to the household from nonhousehold members. This includes any portion of such payments returned to the household by the cabinet;

(17) The portion of scholarships, educational grants, fellowships, deferred payment loans for education, and veterans educational benefits which are not excludable pursuant to [under] Section 3(6) of this administrative regulation;

(18) Payments from government sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit;

(19) Monies withdrawn or dividends which are or could be received from a trust fund;

(20) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien as set forth in 904 KAR 3:035, Section 5(11) [6(12)];

(21) The portion of means-tested assistance monies from a federal, state, or local welfare program which are withheld for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements;

(22) Earnings of [te] an individual who is participating in on-the-job training programs under 29 USC 1501 unless the individual is under nineteen (19) years of age and under the parental control of another adult member; and

(23) Portions of Indian Per Capita payments made pursuant to 25 USC 459, 25 USC 1261, and 25 USC 1401 in excess of \$2,000 per payment per individual, effective September 1, 1989.

Section 3. Income Exclusions. The following payments shall not be considered as income:

(1) Money withheld from an assistance payment, earned income or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, except in Section 2(21) [44] of this administrative regulation;

(2) Child support income shall be considered as follows:

(a) Child support payments received by recipients of Kentucky Transitional Assistance Program [Aid to Families with Dependent Children] which must be transferred to the Division of Child Support

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by the Food and Consumer Service;

(2) Twenty (20) percent of gross earned income that is reported timely;

(3) Payments for the actual cost for the care of:

- (a) A child; or
- (b) Other dependent;
- (c) Not to exceed:

- 1. \$200 per month per dependent child under age two (2); and
- 2. \$175 per month for each other dependent;
- (d) When necessary for a household member to:

- 1. Seek, accept or continue employment;
- 2. Attend training; or
- 3. Pursue education preparatory to employment;

(4) The monthly shelter cost deduction shall be determined as follows:

(a) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made.

(b) The shelter deduction shall not exceed the excess shelter maximum established by the Food and Consumer Service, except that households containing an elderly or disabled member shall not be subject to the maximum.

(c) The excess shelter maximum shall be adjusted periodically by the Food and Consumer Service to reflect changes in the cost of living for a prior period of time.

(d) Allowable monthly shelter expenses shall include the following expenses:

1. Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on the payments;

2. Property taxes, state and local assessments, and insurance on the structure itself, but no separate cost of insuring furniture or personal belongings;

3. The cost of:

- a. Heating and cooking fuel;
- b. Cooling;
- c. Electricity;
- d. Water and sewage;
- e. Garbage and trash collection fees;
- f. The telephone standard deduction; and
- g. Fees charged by the utility provider for the initial installation of the utility;

4. The shelter costs for the home if temporarily not occupied by the household because of:

- a. Employment or training away from home;
- b. Illness; or
- c. Abandonment caused by a natural disaster or casualty loss;

and

- d. If the household intends to return to the home;
- e. The current occupants of the home are not claiming the shelter costs for food stamp purposes; and
- f. The home is not leased or rented during the absence of the household; and

5. Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood, unless such costs are reimbursed by:

- a. Private or public relief agencies;
- b. Insurance companies; or
- c. From any other source.

(e) The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which receive Low Income Home Energy Assistance Program benefits or which incur heating or cooling (by air conditioning units only) costs separate and apart from their rent or mortgage payments.

(f) If the household is not entitled to the utility standard or the homeless ~~[shelter]~~ standard allowance, the household will be given

the option of choosing between actual utility expenses and the basic utility allowance.

- 1. The basic utility allowance shall be adjusted annually; and
- 2. Shall be allowed as an option to a household that is billed for:
 - a. Electricity (nonheating and noncooling);
 - b. Water or sewage;
 - c. Garbage or trash; or
 - d. Cooking fuel.

(g) The standard utility allowance shall be adjusted at least annually to reflect changes in the cost of utilities.

(5) ~~[(4)]~~ The cabinet shall use a homeless ~~[shelter]~~ standard allowance of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month, unless that household verifies higher expenses.

(6) ~~[(5)]~~ Allowable medical expenses, excluding special diets, in excess of thirty-five (35) dollars per month incurred by any household member who meets the definition of being elderly or having a disability as specified by 904 KAR 3:010E, Section 1(9) and (11) ~~[(10)]~~, including, but not limited to:

- (a) Medical and dental care;
- (b) Hospitalization or outpatient treatment and nursing care;
- (c) Medication and medical supplies;
- (d) Health and hospitalization premiums; and
- (e) Dentures, hearing aids, eyeglasses and prosthetics.

(7) ~~[(6)]~~ Actual child support payments made by a household member shall be allowed as a deduction if:

(a) The household member is legally obligated to pay child support; and

(b) Verification is provided showing payments are currently being made.

Section 6. Resources. (1) Uniform national resource standards of eligibility shall be utilized.

(2) Eligibility shall be denied or terminated if the total value of a household's liquid and nonliquid resources, not exempt under Section 7 of this administrative regulation exceed:

- (a) \$3000 for all households with one (1) or more members, when at least one (1) member is sixty (60) years or older; or
- (b) \$2000 for any other household.

(3) A household which is categorically eligible as specified in Section 4(2) of this administrative regulation shall be considered as having met the food stamp resource requirement.

(4) A household member who receives benefits from Kentucky Transitional Assistance Program ~~[Aid to Families with Dependent Children]~~ or Supplemental Security Income shall be considered categorically eligible and to have satisfied the Food Stamp Program's resource limits as specified in subsection (2) of this section.

Section 7. Exempt Resources. The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Household goods;

(3) Personal effects;

(4) ~~[including]~~ One (1) burial plot per household member;

(5) ~~[(4)]~~ The cash value of life insurance policies; and

(6) ~~[(5)]~~ Pension funds (except that Keogh plans which involve no contractual relationship with individuals who are not household members and Individual Retirement Accounts shall not be exempt);

(7) The value of one (1) ~~[(6)]~~ prepaid burial plan per household member shall be excluded as follows:

(a) The entire value of a prepaid burial plan shall be excluded if, prior to the date the household member becomes eligible to participate in the Food Stamp Program, the money is not accessible to the household because it is held in an active irrevocable funeral trust agreement with the funeral home as the agent; or

(b) The equity value of a prepaid burial plan that is accessible to

procedures pursuant to the 904 KAR 3:042E.

JOHN L. CLAYTON, Commissioner and Secretary
APPROVED BY AGENCY: February 24, 1997
FILED WITH LRC: February 27, 1997 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) Type and number of entities affected: The provisions that are being incorporated into this administrative regulation as a result of the implementation of PL 104-193, sections 807, 808, 809, 810, 829, and 911 are mandatory changes to the financial eligibility criteria of the Food Stamp Program. These changes affect the method of excluding the earnings of children, weatherization payments, the earned income deduction to households that fail to timely report income changes, homeless shelter standard, and increases the vehicle resource exclusion. Sections 829 and 911 of the above-referenced law prohibits an increase in food stamp benefits as the result of a decrease in another means-tested public assistance or welfare program due to the households failure to comply with the other programs eligibility requirements. To prevent an increase in food stamp benefits, states are permitted to use the sanctioning method that is utilized in the other means-tested program to sanction the food stamp household or reduce the food stamp allotment by an amount up to 25%. Due to the administrative complexity of trying to determine all of the reasons why an individual could be sanctioned in another means-tested program, the department has elected to use the method of reducing the food stamp allotment by 25%. Other changes that are incorporated into this administrative regulation include technical changes to the policy relating to the exclusion of student income and prepaid burial plans. These changes and clarifications are being incorporated into this emergency administrative regulation as the result of federal regulations that were published as final regulations and must be implemented effective for March 1, 1997. All of the changes that are incorporated into this emergency administrative regulation are mandated. Some of the changes will have a positive impact on the food stamp households while other changes in policy will have a negative impact. The cabinet cannot determine the number of individuals that may be affected by the above-referenced changes in the federal law and regulations. The cabinet anticipates that the promulgation of this emergency administrative will not have a significant impact on any of the entities that will be affected the changes in food stamp policy.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the Notice of Intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the Notice of Intent.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: This administrative regulation will not create any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: See item #1.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: 1997- None. The provisions that are incorporated into this emergency administrative regulation affect the financial eligibility determination for the Food Stamp Program. None of the changes being implemented will significantly increase or decrease the number of people who are eligible for food stamp benefits. Thus, the

department does not anticipate any additional administrative costs resulting the promulgation of this administrative regulation. Any cost or savings in food stamp benefits that are realized as a result of changes to financial eligibility criteria will be insignificant. Since food stamp benefits are 100% federally funded, a cost or savings will not have any impact on the state agency.

2. Continuing costs or savings: 1998 - same as #1.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: 100% federal funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be determined after the publication of the Notice of Intent.

(b) Kentucky: To be determined after the publication of the Notice of Intent.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the cabinet is responsible to meet the federal requirements pursuant to PL 104-193, sections 807, 808, 809, and 810. However, sections 829 and 911 require the state agency to prevent an increase an increase in the food stamp allotment when the benefits of a household are reduced in another means-tested public assistance or welfare program due to the failure of the household to comply the program's eligibility requirements. To prevent an increase in food stamp benefits, states are permitted to use the sanctioning method that is utilized in the other means-tested program to sanction the food stamp household or reduce the food stamp allotment by an amount up to 25%. Due to the administrative complexity of trying to determine all of the reasons why an individual could be sanctioned in another means-tested program, the department has elected to use the method of reducing the food stamp allotment by 25%.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a harmful effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: It is necessary to promulgate this administrative regulation to prevent the possible loss of federal funding (100% of food stamp benefits, 50% of federal match for administrative funds, and 100% of federal enhanced funding), due to the failure to implement the federal mandates of PL 104-193, sections 807, 808, 809, 810, 829, and 911.

(9) 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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 104-193, sections 807 (7 USC 2014(d)), 808 (7 USC 2014(d)), 809 (7 USC 2014(e)(2)), 809 (7 USC 2014(e)(5)), 810 (7 USC 2014(g)), and 829 and 911 (7 USC 2017). The federal regulations at 7 CFR 273.8 and 273.9

2. State compliance standards. This regulation pertains to

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(b) Individuals disqualified for refusing to provide or apply for a Social Security number; and

(c) Individuals disqualified for intentional program violation.

(4) The following shall be exempt from work registration requirements:

(a) A person younger than sixteen (16) years of age or a person sixty (60) years of age or older;

(b) A person age sixteen (16) or seventeen (17) who is not a head of a household or who is attending school, or enrolled in an employment training program on at least a half-time basis;

(c) A person with a physical or mental disability;

(d) A household member subject to and complying with any work requirement in the Kentucky Transitional Assistance Program (K-TAP) [Aid to Families with Dependent Children Program];

(e) A parent or other household member who is responsible for the care of:

1. A dependent child under age six (6); or

2. An incapacitated person;

(f) A person who receives unemployment compensation or a person who has applied for, but has not yet begun to receive, unemployment compensation if that person was required to register for work with the Department for Employment Services as part of the unemployment compensation application process;

(g) A regular participant in a substance abuse or alcohol treatment and rehabilitation program;

(h) A person who is employed or self-employed and:

1. Working a minimum of thirty (30) hours weekly; or

2. Receiving weekly earnings at least equal to the federal minimum wage multiplied by thirty (30) hours;

(i) A migrant or seasonal farm worker who:

1. Meets the criteria in paragraph (h) of this subsection; and

2. Is under contract or similar agreement with an employer or crew chief to begin employment within thirty (30) days; or

(j) A student enrolled at least half time in any recognized school, training program, or institution of higher education, provided that those meeting student status have met the eligibility conditions in 904 KAR 3:025E, Section 3.

(5) A household member who loses exemption status due to a change in circumstances that are subject to the reporting requirements of the Food Stamp Program shall work register:

(a) When the change is reported, if the change is:

1. A change in the source of income or in the amount of gross monthly income totaling more than twenty-five (25) dollars, unless the amount change is in a K-TAP [An Aid to Families with Dependent Children] grant;

2. Any change in household composition, including the addition or loss of a household member;

3. A change in residence and the resulting change in shelter costs;

4. The acquisition of a nonexempt licensed vehicle or loss of a vehicle exemption for a household member who has a physical disability;

5. A change in total resources that reach or exceed the allowable maximum; or

(b) At the household's next recertification if the change in circumstance involves a change not subject to reporting requirements in paragraph (a) of this subsection.

(6) All nonexempt household members shall be subject to the following work requirements:

(a) Keep the initial assessment interview;

(b) Provide requested verification by mail or in person;

(c) Participate in a Food Stamp Employment and Training Program if assigned;

(d) Respond to any request for additional information regarding employment status or availability for work;

(e) Report to an employer if referred by the food stamp employment and training worker or designee provided that the potential

employment is not unsuitable as designated in Section 8 [7] of this administrative regulation; and

(f) Accept a bona fide offer of suitable employment at a wage not less than state or federal minimum wage.

(7) Household members who are exempt or those completing the work registration requirements may volunteer to participate in the Food Stamp Employment and Training Program.

(8) The food stamp employment and training worker shall explain to the food stamp applicant:

(a) The work requirements for each nonexempt household member;

(b) The rights and responsibilities of the work registered household members; and

(c) The consequences of failing to comply.

(9) Each household member required to register shall be notified in writing of the requirements in subsection (6) of this section.

Section 3. Employment and Training Participation. (1) Work registrants who reside in a county which offers a Food Stamp Employment and Training Program shall be required to participate in the Food Stamp Employment and Training Program based on priority status.

(2) Priority status shall be determined if the work registrant:

(a) Has no high school diploma or general equivalency diploma (GED);

(b) Has no employment in the last twelve (12) months; ~~or~~

(c) Is a veteran; ~~or~~

(d) Is subject to the work requirement pursuant to 904 KAR 3:025E, Section 3(8).

(3) Food stamp employment and training participants shall:

(a) Be placed in education, skills training, ~~or~~ job search activities, or workfare;

(b) Be reimbursed for miscellaneous and dependent care expenses, if otherwise eligible, up to:

1. The child care maximum payments as specified in 904 KAR 2:017 not to exceed \$200 per month per child under two (2) years of age or \$175 per month per child for all other eligible dependent children for child care expenses incurred on or after September 1, 1994; and

2. Twenty-five (25) dollars a month for miscellaneous expenses incurred while participating in the Food Stamp Employment and Training Program.

(4) Those participants who do not meet the criteria in subsection (2) of this section shall not be selected to participate in a Food Stamp Employment and Training component unless they are adamant about participating.

Section 4. Components. (1) All counties offering the Employment and Training Program shall offer the following services and activities:

(a) [(1)] Educational components shall be:

1. ~~[(a)]~~ Literacy programs;

2. ~~[(b)]~~ Adult basic education (ABE);

3. ~~[(c)]~~ General equivalency diploma (GED); and

4. ~~[(d)]~~ Community college.

(b) [(2)] Skills training components shall be:

1. ~~[(a)]~~ Vocational school;

2. ~~[(b)]~~ On-the-job training; and

3. ~~[(c)]~~ Kentucky Domestic Violence Association (KDVA).

(c) [(3)] Job search components shall be:

1. ~~[(a)]~~ Job seeking skills training;

2. ~~[(b)]~~ Group job search; ~~and~~

3. ~~[(c)]~~ Individual job search;

(d) A workfare component titled the Work Experience Program (WEP).

(2) An individual who selects to participate in the WEP component, pursuant to subsection (1)(d) of this section, shall be considered to have satisfied the work requirement pursuant to 904 KAR 3:025E,

the time of the offer, unless the strike has been enjoined under 29 USC 178 and 45 USC 152.

(5) In addition, employment shall be considered unsuitable if the household member involved can demonstrate or the worker otherwise becomes aware that:

- (a) The degree of risk to health and safety is unreasonable;
- (b) The member is physically or mentally unsuited to perform the employment. This shall be documented by medical evidence or by reliable information from other sources;
- (c) The employment offered within the first thirty (30) calendar days of registration is not in the member's major field of experience as demonstrated by the individual or if the worker otherwise becomes aware;
- (d) Daily commuting time exceeds two (2) hours a day, not including transporting a child to and from a child care facility;
- (e) The distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site; or
- (f) The working hours or nature of the employment interferes with the member's religious observances, convictions or beliefs.

Section 9. Voluntary Quit. (1) An individual [A primary wage earner] who meets the definition of voluntary quit or voluntary reduction in work effort, pursuant to Section 1(3) and (4) of this administrative regulation, [voluntarily quits a job of twenty (20) hours or more a week] without good cause sixty (60) days or less prior to the date of food stamp application shall not be eligible to participate in the program.

(2) The disqualification period for an individual described in subsection (1) of this section [voluntary quit] shall be imposed pursuant to Section 7 of this administrative regulation. [±

(a) Ninety (90) days from the date of quit if the individual is an applicant; and

(b) Ninety (90) days beginning with the first of the month after all normal procedures for taking adverse action have been taken if the individual is in an active food stamp case.]

(3) Good cause for leaving employment includes criteria in Section 6 of this administrative regulation and the following:

(a) Discrimination by the employer based on:

- 1. Age;
- 2. Race;
- 3. Sex;
- 4. Color;
- 5. Disability;
- 6. Religious beliefs;
- 7. National origin; or
- 8. Political beliefs;

(b) Work demands or conditions that render continued employment unreasonable, as in working without being paid on time;

(c) Acceptance of employment by the individual [head of household], or enrollment of at least half time in any recognized school, training program or institution of higher education, that requires the individual [head of household] to leave employment;

(d) Acceptance of employment by any other household member or enrollment at least half time in any recognized school, training program or institution of higher education in another county or similar political subdivision which requires the individual [head of household] to leave employment;

(e) Resignations of persons under age sixty (60) which are recognized by the employer as retirement;

(f) Employment which becomes unsuitable by not meeting criteria in Section 8 after the acceptance of the employment;

(g) Acceptance of a bona fide offer of employment of more than twenty (20) hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by twenty (20) hours which, because of circumstances beyond the control of the household member [primary wage earner], subsequently either does

not materialize or results in employment of less than twenty (20) hours a week or weekly earnings of less than the federal minimum wage multiplied by twenty (20) hours; and

(h) Leaving a job in connection with patterns of employment in which workers frequently move from one (1) employer to another as in migrant farm labor or construction work.

(4) Good cause for voluntary quit or reduction in work effort shall be verified if questionable.

Section 10. Curing Sanction for Voluntary Quit. (1) An individual [A household] may begin participation in the Food Stamp Program following the voluntary quit disqualification period, pursuant to Section 7(2) of this administrative regulation, if he [it] applies again and is determined eligible.

(2) Eligibility may be reestablished following the minimum period of disqualification imposed pursuant to Section 7(2) of this administrative regulation [during a disqualification period] and the household member shall, if otherwise eligible, be allowed to resume participation if he [the member who caused the disqualification]:

(a) Secures new employment which is comparable in salary or hours to the job which was quit; or

(b) Increases the number of work hours that he was working prior to the reduction in work effort that caused the imposition of the disqualification period [Leaves the household].

(3) A work registrant who:

(a) Is required to participate in the:

1. Food Stamp Employment and Training Program; or

2. Kentucky Transitional Assistance Program [Aid to Families with Dependent Children], Job Opportunities and Basic Skills Program as specified in 904 KAR 2:006E and 904 KAR 2:370; and

(b) [It] Fails to participate shall be ineligible to receive food stamp benefits for a period pursuant to Section 7(2) of this administrative regulation [two (2) months] unless:

1. Good cause exists;

2. [The noncompliant individual was participating in a Job Opportunities and Basic Skills Program component which is more stringent than the components of the Food Stamp Employment and Training Program; or

3.] The noncompliant Job Opportunities and Basic Skills Program participant is otherwise exempt from work registration in the Food Stamp Employment and Training Program.

[(e) An individual who is not sanctioned in the Food Stamp Program as meeting the criteria in paragraph (b)2 of this subsection shall be work registered in the Food Stamp Employment and Training Program unless otherwise exempt by subsection 2 of this section.]

Section 11. Hearing Process. Work registrants shall have the same opportunity to request a hearing as specified in 904 KAR 3:070.

Section 12. Replacements for employment and training reimbursement checks that are lost or stolen shall be made by completing appropriate forms.

Section 13. The Community Service Program (CSP). (1) An individual who participates in CSP shall be considered to have satisfied the work requirement pursuant to 904 KAR 3:025E, Section 3(8), by:

(a) Establishing a work placement with a public or private nonprofit community service agency;

(b) Working, at a minimum, for the community service agency the required number of hours pursuant to subsection (2) or (3) of this section;

(c) Providing verification from the community service provider of:
1. The number of hours of community service that the individual intends to perform each month; and

2. At each subsequent recertification or change in household composition, the number of community service hours that the

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815 is extremely complex for sanctioning the entire household. If the entire household is sanctioned, after the minimum disqualification period is served, the household may reestablish participation in the Food Stamp Program provided that the individual causing the sanction complies with the work requirement. If the individual still refuses to comply, the household remains ineligible for the remainder of 6 months. If at the end of the 6 month period the noncompliant individual refuses to cooperate with the work requirement, the remaining household members may participate, however, the noncompliant individual remains ineligible and his income and resources are counted toward the entire household. Therefore, to avoid penalizing children and spouses for the actions of an individual household member and to streamline and to simplify the sanctioning process, the cabinet is not exercising the option, thereby rejecting the alternative method of sanctioning the entire household. As a conformity change, the definition of "primary wage earner" is removed as it is no longer relevant to the sanctioning process.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The cabinet is required to administer the work program pursuant to 7 USC 2015(d) for the determination of eligibility for food stamp benefits. Individuals who comply with the work requirements have the opportunity to receive assistance in finding employment and obtaining education and training. This administrative regulation is needed to comply with the federal mandates of PL 104-193, section 815. Also, individuals who are subject to the work requirement pursuant to 904 KAR 3:025E, Section 3(8), who cannot find a job can participate in the Food Stamp Program by complying with the requirements of the Work Experience Program (WEP), a component of the Food Stamp Employment and Training Program. Food stamp recipients who want to secure their own service provider may do so as a participant in the Community Service Program (CSP). By implementing these provisions, including WEP and CSP, program participants will benefit by a nutritious diet.

(b) State whether a harmful effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: It is necessary to promulgate this administrative regulation to prevent the possible loss of federal funding (100% of food stamp benefits, 50% of federal match for administrative funds, and 100% of federal enhanced funding), due to the failure to implement the federal mandates of PL 104-193, section 815.

(9) 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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

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 standards, or additional or different responsibilities or requirements. None

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 USC 2015(d) as amended by PL 104-193, section 815.

2. State compliance standards. This regulation pertains to Food Stamp Employment and Training Program requirements which are germane to the Food Stamp Program, as prescribed by 7 USC 2015(d), as amended. There are no separate state compliance standards.

3. Minimum or uniform standards contained in the federal mandate. The provisions of this administrative regulation are promulgated in accordance with 7 USC 2015(d) et seq., as amended, and applied in a like manner on a statewide basis.

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credit. ~~[The member shall have the right to purchase the service credit within thirty (30) days following his retirement date.]~~

Section 7. (1) The retirement office shall provide forms for the selection or waiver of medical insurance coverage for the member, his spouse and dependents under the group insurance plan ~~[or to waive the right to insurance coverage]~~ at the time of retirement. The forms shall be ~~[provided are]~~ ~~[the Kentucky Retirement Systems Health Insurance Coverage Form, dated July 1994,]~~ the Kentucky Retirement Systems High and Low Option Coverage, Form 6200, ~~[dated January 1997]~~ ~~[June 1994]~~ and the Waiver of Insurance Coverage, Form 6210, ~~[dated January 1997]~~. ~~[For individuals who are not eligible for Medicare coverage, the form shall be provided by the Health Purchasing Alliance.]~~ ~~[July 1991.]~~

(2) If the insurance form is received prior to the date the initial retirement allowance ~~[check]~~ is processed, the insurance coverage shall be effective the first day of the month in which the initial allowance ~~[check]~~ is processed. If the form is received after the date the initial retirement allowance ~~[check]~~ is processed, coverage shall be effective the first day of the month following the month in which the initial retirement allowance ~~[check]~~ is processed.

(3) A recipient who fails ~~[Members who fail]~~ to submit a form selecting medical insurance coverage within thirty (30) days following the first day of the month in which the ~~[their]~~ initial retirement allowance ~~[check]~~ is processed shall not be eligible for benefits under the insurance plan until the following open enrollment period.

Section 8. The retirement office shall provide an Income Tax Withholding Preference, Form 6017, dated January 1997 ~~[October 1989]~~, to the member to request that federal income taxes be withheld or not withheld from his retirement allowance.

Section 9. The retirement office shall provide a Death Benefit Designation, Form 6030 ~~[36]~~, dated January 1997 ~~[August 1994]~~, to the member to designate a beneficiary for the death benefit provided by the Kentucky Retirement Systems.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Notification of Retirement", Form 6000, January 1997, Kentucky Retirement Systems;

(b) "Estimated Retirement Allowance", Form 6010, January 1997, Kentucky Retirement Systems;

(c) "Authorization for Deposit of Retirement Payment", Form 6130, January 1997, Kentucky Retirement Systems;

(d) ~~["Request for Payment by Check", Form 6135, January 1997, Kentucky Retirement Systems;~~

~~(e)]~~ "Certification of Service", Form 6120, January 1997, Kentucky Retirement Systems;

(e) ~~[(f)]~~ "Kentucky Retirement Systems High and Low Option Coverage", Form 6200, January 1997, Kentucky Retirement Systems;

(f) ~~[(g)]~~ "Waiver of Insurance Coverage", Form 6210, January 1997, Kentucky Retirement Systems;

(g) ~~[(h)]~~ "Income Tax Withholding Preference", Form 6017, January 1997, Kentucky Retirement Systems; and

(h) ~~[(i)]~~ "Death Benefit Designation", Form 6030, January 1997, Kentucky Retirement Systems.

(2) This material may be inspected, copied, or obtained at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Monday through Friday, 8 a.m. to 4:30 p.m. ~~[The forms required by this administrative regulation are incorporated by reference and are available from Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.]~~

FRANK W. BURKE, Chair

APPROVED BY AGENCY: November 21, 1996

FILED WITH LRC: December 6, 1996 at 3 p.m.

GENERAL GOVERNMENT CABINET Kentucky Board of Medical Licensure (As Amended)

201 KAR 9:021. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees.

RELATES TO: KRS 311.530 to 311.620, 311.990, 311.271

STATUTORY AUTHORITY: KRS 311.565

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the administrative regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this administrative regulation is to establish standards for approval of medical and osteopathic schools, colleges and universities in regard to the issuance and renewal of licenses and permits to practice medicine or osteopathy in the Commonwealth. The further purpose of this administrative regulation is to assure that physicians obtain sufficient postgraduate training to enable them to practice with competency within the Commonwealth.

Section 1. (1) Except as provided by subsection (2) of this section:

(a) A license or permit shall not be issued by the board or retained by a licensee if an applicant or licensee has failed to provide the board proof that he is a graduate of a medical or osteopathic school, college, or university that has been approved by the board; and

(b) The requirement for board approval of an educational institution shall not be waived.

(2) An applicant for limited licensure-institutional practice pursuant to KRS 311.571(4) shall be granted a license without prior approval by the board of the medical or osteopathic school, college, or university from which he graduated if he has submitted proof:

(a) Of the educational institution's existence; and

(b) That he is a graduate thereof. ~~[Approval Necessary for Licensure. An applicant shall not obtain or retain any license or permit issued by the board unless and until the applicant provides sufficient proof that he or she is a graduate of a medical or osteopathic school, college or university which has been approved by the board. An applicant for limited licensure-institutional practice pursuant to KRS 311.571(4) may, however, be granted such licensure without the board's prior approval of the medical or osteopathic school, college or university upon sufficient proof that the particular school does exist and the applicant is a graduate thereof. No other license or permit issued pursuant to any other statutory or regulatory provision shall be issued unless and until the applicant's medical or osteopathic school, college or university has been fully approved. The school approval requirement will not be excused because information concerning the school is not readily ascertainable.]~~

Section 2. Except as provided by Section 4 of this administrative regulation:

(1) A medical or osteopathic school, college, or university located in the United States, its territories or protectorates, or Canada shall be considered approved by the board; and

(2) A license or permit granted by a medical or osteopathic

~~States met the above standards. However, the board may waive the above requirement if the applicant commenced the unapproved clerkship prior to February 12, 1985, and can present verifiable proof of satisfactory completion of an approved three (3) year postgraduate training program at one (1) hospital or institution, or proof of acceptance into or current enrollment in the second or third year of an approved postgraduate training program. Licensure will not be granted unless the board recognizes the applicant's degree.]~~

Section 6. Application of KRS 311.271. ~~[(1) An applicant shall not obtain any license or permit issued by the board unless and until the applicant provides written proof that he or she has been credited with not less than sixty (60) transferable units of study by a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency recognized by the Southern Association of Colleges and Schools; provided, however, that] The executive director shall recommend for approval by the board ~~[may determine]~~ the equivalency of premedical or preosteopathic units of study credited by a college or university located outside the United States or Canada on an individual basis.~~

~~[(2) It is the declared policy of the Commonwealth that a physician, who becomes initially enrolled in a school of medicine or osteopathy after June 12, 1968, should not be authorized to practice medicine or osteopathy in this state unless and until the physician can provide satisfactory evidence that he or she has fulfilled the premedical or preosteopathic undergraduate requirement delineated in subsection (1) of this section. Therefore, the board will not issue any license or permit to an applicant except upon the fulfillment of this requirement.]~~

Section 7. ~~[Hearings. The board, in its discretion, may direct that formal or informal hearings be held in connection with the approval, denial of approval or withdrawal of approval of any medical or osteopathic school, college or university, or in the determination of qualification pursuant to KRS 311.271.~~

~~Section 8.] Amount of Postgraduate Training Required. An applicant for licensure [(1) All applicants for regular licensure who are graduates of medical and osteopathic schools located within the United States or Canada shall provide written proof of having completed one (1) full year of postgraduate training approved by the board.~~

~~[(2) All applicants for regular licensure who are graduates of medical and osteopathic schools located outside the United States and Canada shall provide written proof of having completed two (2) [three (3)] full years of postgraduate training approved by the board.~~

~~[(3) All applicants for limited licensure institutional practice] shall provide written proof of having completed [one (1) full year of] postgraduate training approved by the board.~~

Section 8. ~~[0.]~~ Postgraduate Training Programs Approved by the Board. The following postgraduate training programs shall meet the postgraduate training requirement for licensure:

(1) All postgraduate training programs in hospitals and institutions located in the United States and approved by the Accreditation Council for Graduate Medical Education ~~[(ACGME) are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure].~~

(2) All postgraduate training programs in hospitals and institutions located in Canada ~~[and approved by the National Joint Committee on Accreditation of Preregistration Physician Training Programs in the United States or Canada are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure].~~

(3) All postgraduate training programs in hospitals and institutions located in the United States or Canada and approved by the American Osteopathic Association ~~[are approved by the board in regard to the fulfillment of the postgraduate training requirement for~~

~~licensure].~~

Section 9. ~~[40.]~~ Fellowship Training in the United States or Canada. The board will consider on an individual basis written proof of satisfactory completion of fellowship training recognized by the board to be of satisfactory quality as substitution for the second or third year of required postgraduate training approved by the board pursuant to this administrative regulation.

ROYCE E. DAWSON, President

APPROVED BY AGENCY: December 13, 1996

FILED WITH LRC: December 13, 1996 at 11 a.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)**

201 KAR 9:310. Continuing medical education.

RELATES TO: KRS 311.565~~(1)(b)~~, 311.601~~[(1), (2)]~~

STATUTORY AUTHORITY: KRS ~~[Chapter 13A,]~~ 311.565~~(1)(a), (b)~~, 311.601~~(1), (2)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the administrative regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this administrative regulation is to establish continuing medical education requirements.

Section 1. Continuing Medical Education. After January 1, 1994, ~~a~~ every licensee ~~shall [be required to]~~ submit, with his annual licensure renewal form, verification of satisfactory completion of a program of continuing medical education.

Section 2. The continuing medical education requirements shall be as follows: ~~[The following are the requirements for licensees:]~~

~~(1) Thirty (30) of the sixty (60) hours shall have been~~ Licensees shall complete a minimum of sixty (60) hours of continuing medical education every three (3) years, with thirty (30) of said hours being certified in Category I by an organization accredited by the:

(a) Accreditation Council on Continuing Medical Education; or
(b) The American Osteopathic Association. ~~[Verification of such attainment shall be submitted to the board before April 1 of a given year and can be submitted in the following ways:]~~

(2)(a) Submit evidence that the licensee has received the American Medical Association's ~~[(AMA's)]~~ "physician recognition award"; ~~[(PRA)]~~ or the American Osteopathic Association's ~~[(AOA's)]~~ "osteopathic physicians' recognition award"; ~~[(OPRA)]~~ and

(b) ~~[that such]~~ Award is in effect at the time a license is renewed.

(3) [(b)] Submit verification that the:

(a) Licensee has completed continuing medical education requirements of any specialty organization which are recognized by the AMA or AOA as at least equivalent to their recognition awards; and

(b) ~~[that such]~~ Certification is in effect at the time a license is renewed.

(4)(a) [(e)] Submit verification that the licensee is in, or has been in, an approved postgraduate training program.

(b) Each year of postgraduate training shall be [is] equivalent to fifty (50) hours of continuing medical education.

Section 3. Required Hours of Continuing Education. (1) For each three (3) year continuing education cycle, a licensee shall complete:

(a) A total of sixty (60) hours of continuing medical educa-

4. Number of contact hours;

5. Fee; and

6. Requirements, for successful completion.

(10) Published information about continuing education activities offered by providers approved by the board shall include the:

(a) Provider number; and

(b) Following statement: "Kentucky Board of Nursing approval of an individual nursing continuing education provider does not constitute endorsement of program content."

(11) A provider shall notify the board in writing within one (1) month of any changes in its administration, such as nurse administrator, mailing address, telephone number or other relevant information.

(12) A provider shall designate and publish the number of hours of any portion of an offering dedicated to pharmacology.

Section 2. (1) The board may review a provider's continuing education activities or approval status at any time.

(2) Except as provided in subsection (3) of this section, if after a review of a provider it is determined that the provider does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny or limit the provider's approval status.

(3) If after a review of a continuing education activity it is determined that the activity does not comply with this administrative regulation, the board shall send the provider notice of its intent to deny approval status for subsequent offerings of that specific continuing education activity.

(4)(a) A request for a hearing before the board shall be filed within ten (10) days of receipt of the board's notice.

(b) If a provider fails to submit a request for a hearing within the time specified in paragraph (a) of this subsection, the board shall implement the action proposed in its notice.

Section 3. Providers shall comply with the following standards:

(1) Continuing education activities shall support the promotion of quality continuing education that will:

(a) Enhance the quality of care provided by nurses; and

(b) Contribute directly to the competence of a nurse.

(2) The content of nursing continuing education shall be designed to:

(a) Present current theoretical knowledge to enhance and expand nursing skills; and

(b) Promote the development, or change in attitudes, necessary to make competent judgments and decisions in nursing.

(3) The educational content shall flow from, and support achievement of, learning objectives that promote safe, effective nursing practice.

(4) Objectives for continuing education activities shall be:

(a) Related to nursing practice and interventions;

(b) Stated in clearly defined expected learner outcomes; and

(c) Consistent with needs assessment data.

(5) The continuing education activity shall reflect cooperative planning between the nurse administrator, faculty and content experts.

(6) The content for each activity shall be documented in provider files as follows:

(a) An agenda delineating the organization of the content, such as presentation schedule, presenters, topics, meals, breaks.

(b) Topical outline and corresponding time frames sufficient to appraise relevance and value of the educational activity to safe, effective nursing practice.

(7) Identified teaching methods shall be consistent with the content and learning objectives, and shall reflect the use of adult learning principles.

(8) Faculty for continuing education activities shall demonstrate content knowledge and expertise, and shall be actively involved in planning their presentations.

(9) The name, title and credentials identifying the educational and

professional qualifications for each faculty member shall be retained in the provider offering files.

(10) Resources allocated for the continuing education activity shall be adequate in terms of education unit organization, with fiscal support for adequate staff, facilities, equipment and supplies to ensure quality teaching-learning in a comfortable environment that is accessible to the target audience.

(11) Records of continuing education activities shall be maintained for a period of five (5) years, including the following:

(a) Title, date and site of the activity;

(b) Name of the person responsible for coordinating and implementing the activity;

(c) Purpose, documentation of planning committee activities, learner objectives, content outline, faculty, teaching and evaluation methods;

(d) Participant roster, with a minimum of names, Social Security numbers and license numbers, if held;

(e) Summary of participant evaluations;

(f) Number of continuing education contact hours awarded.

(12) Participants shall receive a certificate of attendance that documents participation with the following:

(a) Name of participant;

(b) Offering title, date and location;

(c) KBN's provider's name, approval number and expiration date;

(d) Name and signature of authorized provider representative;

(e) Number of continuing education contact hours awarded.

(13) There shall be a clearly defined method for evaluating the continuing education activity which includes the following:

(a) An evaluation tool that includes participant appraisal of achievement of each learning objective; teaching effectiveness of each presenter; relevance of content to stated objectives; effectiveness of teaching methods; and appropriateness of physical facilities.

(b) A mechanism for periodic, systematic evaluation of the provider's total program of educational activities.

(14) An action plan for resolution of identified deficiencies as revealed in the summary of participant evaluations. The plan shall include the projected time frame for resolution.

(a) A nurse who meets the qualifications established in paragraphs (b) and (c) of this subsection shall be administratively responsible for continuing education activities, including:

1. Planning;

2. Development;

3. Implementation; and

4. Evaluation.

(b) A nurse administrator shall:

1. Hold a current, active license;

2. Have experience in adult and continuing education; and

3. Hold a baccalaureate or higher degree, in nursing.

(c) The nurse administrator of continuing education units for licensed practical nursing groups shall hold a diploma, or its equivalent, from an approved school of practical nursing.

Section 4. (1) The following forms are incorporated by reference:

(a) "Application for Provider Approval (1992)";

(b) "List of Approved Organizations (1992)"; and

(c) "Request for Renewal (1992)".

(2) They may be obtained, [reviewed,] inspected or copied at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, 8 a.m. - 4:30 p.m., Monday through Friday.

LINDA J. THOMAS, President

APPROVED BY AGENCY: October 18, 1996

FILED WITH LRC: January 14, 1997 at 2 p.m.

Section 4. Beginning January 1, 1998, in addition to the requirements imposed by Section 1 of this administrative regulation, an applicant [applicants] for licensure by examination or endorsement shall [must] comply with the requirements of this section.

(1) An applicant shall not be eligible for the NCLEX examination or licensure, if the applicant has been convicted:

(a) Of a felony under one (1) of the KRS chapters specified in subsection (2) of this section, within five (5) years of the date of filing an application; or

(b) Of a misdemeanor under one (1) of the KRS chapters specified in subsection (2) of this section, within two (2) years of the date of filing an application; or

(c) For violation of a comparable law in another jurisdiction.

(2) [Applicants who are convicted of a felony under one (1) of the following KRS chapters within five (5) years of the date of filing an application or who are convicted of a misdemeanor under one (1) of the following KRS chapters within two (2) years of the date of filing an application or who are convicted of a comparable law in another jurisdiction shall not be eligible for the NCLEX examination or licensure:]

(a) KRS Chapter 189A (driving under the influence);

(b) KRS Chapter 218A (controlled substances);

(c) KRS Chapter 507 (criminal homicide);

(d) KRS Chapter 508 (assault and related offenses);

(e) KRS Chapter 509 (kidnapping and related offenses);

(f) KRS Chapter 510 (sexual offenses);

(g) KRS Chapter 511 (burglary and related offenses);

(h) KRS Chapter 512 (criminal damage to property);

(i) KRS Chapter 513 (arson and related offenses);

(j) KRS Chapter 514 (theft and related offenses);

(k) KRS Chapter 515 (robbery);

(l) KRS Chapter 516 (forgery and related offenses);

(m) KRS Chapter 521 (bribery and corrupt influences);

(n) KRS Chapter 523 (perjury and related offenses);

(o) KRS Chapter 525 (riot, disorderly conduct and related offenses);

(p) KRS Chapter 527 (offenses related to firearms and weapons);

(q) KRS Chapter 528 (gambling);

(r) KRS Chapter 529 (prostitution offenses);

(s) KRS Chapter 531 (pornography); and

(t) KRS Chapter 506 (offenses of attempts, conspiracy, or complicity to commit the offenses specified in this section).

(3)(a) A notice to deny licensure shall be issued to an applicant for licensure who has been convicted of an offense specified by subsection (1) or (2) of this section.

(b) An applicant who has been issued a notice to deny licensure may request a hearing before a hearing panel.

(4)(a) An applicant for licensure by examination or endorsement shall report:

1. Convictions for crimes specified in subsections (1) and (2) of this section for which the applicant was convicted prior to the time periods specified in subsection (1) of this section; and

2. Convictions for crimes that are not specified in subsection (1) or (2) of this section.

(b) The board shall review convictions reported pursuant to paragraph (a) of this subsection on an individual basis.

[(2) An individual who applies for a license and who has a conviction listed in this section shall be issued a Notice to Deny Licensure. The individual may request a hearing before a hearing panel.

[(3) Applicants for licensure by examination or endorsement who have criminal convictions other than those listed in subsection (1) of this section or who have criminal convictions listed in subsection (1) of this section that are older than the times given in subsection (1) shall report those convictions to the board as required by Section 1(3) of this administrative regulation. The board shall review those convictions on an individual basis.

[(4) The provisions of this section shall become effective January 1, 1998.]

LINDA J. THOMAS, President

APPROVED BY AGENCY: October 18, 1996

FILED WITH LRC: January 14, 1997 at 2 p.m.

DEPARTMENT OF AGRICULTURE
(As Amended)

302 KAR 3:010. Linked Deposit Investment Program.

RELATES TO: KRS 41.600-41.620

STATUTORY AUTHORITY: KRS [Chapter 13A,] 41.606(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 41.606(7) requires the Department of Agriculture to promulgate administrative regulations establishing the conditions for eligibility of agribusinesses for loans through the Linked Deposit Investment Program. This administrative regulation establishes the conditions for eligibility of [which] agribusinesses [are eligible] for loans [made available] through the Linked Deposit Investment Program, [and] provides for agency review of the information provided by the lending institution as part of the loan package, and [- The Linked Deposit Investment Program, as it pertains to agribusiness, will be monitored by the Department of Agriculture. This administrative regulation also] incorporates the form that must be completed and submitted to the department for an agribusiness to apply for a Linked Deposit Investment Program loan. [The department has consulted with the State Investment Commission in preparing this administrative regulation as required by KRS 41.606 and this administrative regulation is in conformity with KRS 41.600 to 41.620 and Chapter 13A.]

Section 1. Definitions. (1) "Applicant" means [is] an agribusiness which has completed a loan package in conjunction with an eligible lending institution for a linked deposit investment program loan.

(2) "Department" means [is defined as] the Department of Agriculture.

(3) [(4)] "Eligible agribusiness" is defined by [in] KRS 41.600(2).

(4) [(3)] "Eligible lending institution" is defined by [in] KRS 41.600(3).

(5) "Linked deposit investment" is defined by [in] KRS 41.600(4).

(6) "Linked Deposit Investment Program loan" means [is] a loan approved by the Department of Agriculture;

(a) Which is eligible for funding out of the unclaimed and abandoned property program administered by the Department of Treasury; and

(b) For which the State Investment Commission has accepted a linked deposit investment with an eligible lending institution.

(7) "Loan package" means [is defined as] the;

(a) "Agribusiness Linked Deposit Loan Application [(7/96)]"; and

(b) [the] Lending institution's application for the loans.

Section 2. Loan Package Approval Standards. (1) An [The] eligible lending institution shall submit the original and two (2) copies of the loan package to the Department of Agriculture at Capital Plaza Tower, 7th floor, 500 Mero Street, Frankfort, Kentucky 40601.

(2) The department shall review the information provided by the applicant in the Agribusiness Linked Deposit Loan Application to determine whether the applicant is an eligible agribusiness as defined by KRS 41.600(2). [each characteristic required by KRS 41.600 has been met to qualify the applicant as an eligible agribusiness for a linked deposit investment program loan submitted through an eligible lending institution.]

[(2) The eligible lending institution shall submit the original and two (2) copies of the loan package to the Department of Agriculture at Capital Plaza Tower, 7th floor, 500 Mero Street, Frankfort,

Section 1. Definitions. (1) "Applicant" means [is] a small business which has completed a loan package in conjunction with an eligible lending institution for a linked deposit investment program loan.

(2) "Cabinet" means [is defined as] the Cabinet for Economic Development.

(3) "Eligible lending institution" is defined by [in] KRS 41.600.

(4) "Eligible small business" is defined by [in] KRS 41.600.

(5) "Linked deposit investment" is defined by [in] KRS 41.600.

(6) "Linked Deposit Investment Program loan" means [is] a loan approved by the Cabinet for Economic Development, which is eligible for funding out of the unclaimed and abandoned property program administered by the Department of Treasury, and for which the State Investment Commission has accepted a linked deposit investment with an eligible lending institution.

(7) "Loan package" means [is defined as] the "Small Business Linked Deposit Loan Application (7/96)" and the "Cabinet for Economic Development Economic Incentive Disclosure Statement (9/96)" and the lending institution's application for the loans.

Section 2. Loan Package Approval Standards. (1) The eligible lending institution shall submit the original and two (2) copies of the loan package to the cabinet's Small and Minority Business Division at 67 Wilkinson Boulevard, Frankfort, Kentucky 40601.

(2) The cabinet shall review the information provided by the applicant in the Small Business Linked Deposit Loan Application to determine whether the requirements of [each characteristic required by] KRS 41.606 have [has] been met to qualify the applicant as an eligible small business for a linked deposit investment program loan submitted through an eligible lending institution.

[(2) The eligible lending institution shall submit the original and two (2) copies of the loan package to the cabinet's Small and Minority Business Division at 67 Wilkinson Boulevard, Frankfort, Kentucky 40601.]

(3) The cabinet shall return an [any] incomplete loan package to the eligible lending institution which [who] submitted the application on behalf of the applicant. The completed loan package may be resubmitted to the cabinet for approval.

Section 3. Loan and Investment Approval Process. (1) Funds available for Linked Deposit Onvestment Program loans shall:

(a) Be based on the recommendation contained in the Department of Treasury annual report submitted pursuant to subsection (2) of this section; and

(b) Not exceed the limits established by the State Investment Commission. [After the cabinet has determined that the loan package is complete in accordance with this administrative regulation it shall forward the loan package to the State Investment Commission for funding as required by KRS 41.610(5).] [request the Treasury Department to verify the projected availability of funds in the state's unclaimed and abandoned property program for the purpose of determining whether adequate funds exist for each loan to be made from the linked deposit investment program.]

(2) [Funds for Linked Deposit Investment Program loans are derived from the Department of Treasury's unclaimed and abandoned property fund as required by KRS 41.606(1). The availability of funds for Linked Deposit Investment Program loans shall be based on the recommendation contained in the Department of Treasury's annual report detailing the amount of money in the unclaimed and abandoned property fund, but shall not exceed the limits established by the State Investment Commission.] The Department of Treasury shall submit its annual report to the State Investment Commission and the cabinet no later than March 31 of each year, detailing the amount of money in the unclaimed and abandoned property fund. [Upon determination by the Department of Treasury that adequate funds exist for a loan to be made from the linked deposit investment program, the cabinet shall forward or cause to be forwarded to the State Investment Commission a copy of the Treasurer's certification

that adequate funds exist in the unclaimed and abandoned property program to fund the linked deposit investment program for the period of time contemplated by the loan agreement between the eligible lending institution and the borrower. The cabinet shall also forward a copy of the completed Small Business Linked Deposit Loan Application to the State Investment Commission for funding as required by KRS 41.610(5).]

(3) [An application for a linked deposit investment program loan shall be denied upon certification from the Treasury Department that sufficient funds do not exist in the state's unclaimed and abandoned property program to make the loan.]

(4) Approval for a new application for a linked deposit investment shall [may] be denied or an existing investment revoked by the State Investment Commission for failure of the financial institution to meet and maintain the eligibility requirements prescribed in KRS 42.500 and 200 KAR Chapter 14 for each investment type.

Section 4. Repayments. The eligible lending institution shall remit to the State Investment Commission by June 30 of each year all loan principal repayments for the preceding year beginning June 1 and ending May 31.

Section 5. Reporting Requirements. (1) Within thirty (30) days from the date [When] a linked deposit investment has been funded [approved] by the State Investment Commission, the eligible lending institution shall submit [appropriate] written documentation to the cabinet describing with particularity the actual terms of the loan agreement between the applicant and the eligible lending institution, including the loan amount, the interest rate charged to the applicant, the length of time permitted for repayment of the loan and any other terms or documents required by the eligible lending institution to execute the loan.

(2) The State Investment Commission shall submit to the cabinet's Small and Minority Business Division a copy of the letter confirming each approved linked deposit investment with the eligible lending institution no later than thirty (30) days after the date the Linked Deposit Investment Program loan has been funded.

(3) The eligible lending institution shall submit to the cabinet's Small and Minority Business Division on or before August [by September] 1 of each year a report summarizing the status and total of each Linked Deposit Investment Program loan outstanding with the lender, including, but not limited to the beginning balance, ending balance and principal repayments received during the year. [of all principal repayments made by the eligible lending institution to the State Investment Commission for the preceding year beginning July 1 and ending June 30.]

(3) The first annual report shall be filed on or before September 1, 1997 indicating all repayments made between July 15, 1996 and June 30, 1997.]

Section 6. [6.] Incorporation by Reference. (1) The following documents are incorporated by reference:

(a) "Small Business Linked Deposit Loan Application (7/96)"; and

(b) "Cabinet for Economic Development Economic Incentive Disclosure Statement (9/96)".

(2) These documents may be inspected, copied, or obtained from the Cabinet for Economic Development Small and Minority Business Division, 67 Wilkinson Boulevard, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday. [The "Small Business Linked Deposit Loan Application (7/96)" and the "Cabinet for Economic Development Economic Incentive Disclosure Statement (9/96)" are incorporated herein by reference. A copy of the form of application and the disclosure statement form may be inspected, copied or obtained from the Cabinet for Economic Development Small and Minority Business Division, 67 Wilkinson Boulevard, Frankfort, Kentucky 40601, (502) 564-2064, from 8 a.m. to 4:30 p.m., Monday

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the recruitment office of the department that he ~~[the applicant]~~ wishes to retake the examination.

(b) If he has notified the recruitment office as provided by this subsection, he:

1. ~~[(a)]~~ May retake the written examination once; and
2. ~~[(b)]~~ Shall retake the next written examination that is scheduled at least thirty (30) days after the written examination the applicant failed.

Section 4. An applicant ~~[Applicants]~~ shall have submitted a completed application prior to taking the written examination.

Section 5. An examination ~~[Applicants who will not meet the age, educational, and experience requirements shall not be permitted to take the written examination.]~~

Section 6. ~~Examinations]~~ shall be rated impartially~~[- and each applicant shall be advised of his score].~~

Section 6. An applicant shall be informed of his score.

Section 7. The written examination shall be pass/fail ~~[constitute thirty (30) percent of the total score].~~

GARY W. ROSE, Commissioner

APPROVED BY AGENCY: January 15, 1997

FILED WITH LRC: January 15, 1997 at 11 a.m.

JUSTICE CABINET Department of State Police (As Amended)

502 KAR 45:055. Oral interview.

RELATES TO: KRS 16.050

STATUTORY AUTHORITY: KRS 16.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 16.050 requires the State Police Personnel Board to establish open competitive examination of applicants for employment as officers. This administrative regulation establishes the oral interview component of the examination.

Section 1. (1) Eligibility for the oral interview shall be determined by the commissioner. ~~[An appropriate number of applicants who have completed the CBTT shall be eligible to participate in the oral interview component of the selection process. Oral interviews shall be conducted by oral interview panels appointed by the commissioner, who shall determine the number of applicants to be interviewed. The commissioner shall determine the number of applicants to be interviewed based upon the number of available vacant funded positions and the projected attrition rates as candidates advance through the selection process. Applicants shall be selected for interviews in rank order as determined by their combined scores on the written examination and the CBTT. The commissioner may deviate from the rank order of score only when necessary to correct a manifest imbalance in the representation of minorities or women in the pool of qualified applicants, and there exists a manifest imbalance of minorities or women in the department.]~~

(2) Except as provided by subsection (3) of this section, eligibility for the oral interview shall be based upon:

- (a) An applicant's score on the Content Based Task Test; and
- (b) The number of positions required to be filled. ~~[Each oral interview panel shall consist of three (3) members, at least one (1) of whom shall be a female or a member of a minority group, and at least one (1) of which shall be a sworn officer. To ensure fairness and consistency, panel members shall receive training related to interview~~

~~methodology and equal employment opportunity law.]~~

(3) The commissioner may deviate from the order of Content Based Task Test score if an imbalance of minorities or women exists in the pool of qualified applicants or in the department. ~~[Members of the oral interview panels shall disclose each instance in which they are personally acquainted with an applicant to be interviewed or with any member of the applicant's immediate family, and that applicant shall be interviewed by another panel.]~~

Section 2. (1) (a) An oral interview panel shall consist of three (3) members.

(b) One (1) of the members shall be a:

1. Female; or
2. Member of a minority group.

(c) One (1) of the members shall be a sworn officer.

(2)(a) A member of an oral interview panel shall disclose each instance in which the member is personally acquainted with an applicant eligible for an oral interview, or with a member of the applicant's immediate family.

(b) A member of an oral interview panel shall not interview an applicant with whom he is personally acquainted.

Section 3. (1) Prior to the oral interview, an applicant shall have completed and submitted to the department the "Cadet Trooper Background Profile".

(2) Each interview shall be conducted as prescribed by the commissioner.

(3) A panel member shall score each applicant in job related categories.

(4) For each category, an applicant shall be scored on a range from zero to six (6) with six (6) being the highest score and zero being the lowest score.

(5) The oral interview score shall constitute sixty (60) percent of an applicant's score.

(6) As soon as practicable after the oral interview, each applicant shall be advised of his score.

Section 4. Incorporation by Reference. (1) "Kentucky State Police Cadet Trooper Background Profile 02-97" is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department of State Police, Recruitment Office, 919 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [Each interview shall be structured so that all applicants are asked the same initial questions and rated in the same manner; although panel members may ask supplementary questions if they deem it necessary.]

(2) Each applicant interviewed shall be scored in each of five (5) categories by each panel member. The categories shall be:

- (a) Maturity, emotional stability and ego strength;
- (b) Conscientiousness and persistence;
- (c) Social boldness and venturesomeness;
- (d) Self-assuredness; and
- (e) Self-discipline.

For each category, the applicant shall be scored on a range from zero to six (6), with six (6) being the highest score and zero being the lowest score.

(3) The oral interview score shall constitute sixty (60) [forty (40)] percent of the overall score. As soon as practicable after the oral interview, each applicant shall be advised of his score and ranking, and may be requested to inform the department in writing as to whether the applicant wishes to continue to participate in the selection process by consenting to a background investigation.]

GARY W. ROSE, Commissioner

APPROVED BY AGENCY: January 15, 1997

FILED WITH LRC: January 15, 1997 at 11 a.m.

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NECESSITY, FUNCTION, AND CONFORMITY: KRS 16.040 requires that persons appointed as officers be physically able to safely perform essential job tasks. This administrative regulation establishes the procedure to determine if the applicants are capable of performing the essential job tasks of an officer during basic cadet training.

Section 1. An applicant who has successfully completed the written examination shall take the Content Based Task Test. [An appropriate number of applicants who have completed the written examination shall be eligible to participate in the Content Based Task Test (CBTT).]

Section 2. The Content Based Task Test shall consist of tasks simulating the essential job tasks troopers are required to perform. [The CBTT shall consist of tasks simulating the essential job tasks cadet troopers will be required to perform during basic training either with or without reasonable accommodation, which may include but not limited to running, climbing stairs, fences and hillsides, overcoming violent physical resistance from persons arrested or detained, handcuffing persons arrested or detained, lifting and carrying or dragging incapacitated persons, firing and reloading a handgun with either hand and firing and reloading a shotgun, identifying and describing the physical characteristics of suspects of crimes, identifying and describing the physical characteristics of stolen vehicles or vehicles used in crimes, identifying and describing hazardous materials identifiers or placards affixed to vehicles hauling hazardous materials.]

Section 3. The Content Based Task Test [CBTT] shall be structured so that all applicants are required to perform the same tasks and be rated in the same manner.

Section 4. The Content Based Task Test score shall constitute forty (40) percent of an applicant's score.

Section 5. As soon as practical after the Content Based Task Test, an applicant shall be advised of:

(1) His score; and

(2) Whether he is eligible for the oral interview. [The CBTT score shall constitute forty (40) [thirty (30)] percent of the score. As soon as practical after the CBTT, each applicant shall be advised of his score and ranking, and may be requested to inform the department in writing as to whether the applicant wishes to continue to participate in the selection process and be scheduled for the oral interview.]

GARY W. ROSE, Commissioner

APPROVED BY AGENCY: January 15, 1997

FILED WITH LRC: January 15, 1997 at 11 a.m.

COMPILER'S NOTE: The following administrative regulation, 601 KAR 13:110, was amended by the promulgating agency and the Interim Joint Committee on Transportation, and became effective March 4, 1997.

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(As Amended)**

601 KAR 13:110. Driver education programs.

RELATES TO: KRS 186.018, 186.410, 186.535, 186.574

STATUTORY AUTHORITY: KRS 186.400(1) [~~186.410~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.400(1)

authorizes the Transportation Cabinet to promulgate administrative regulations regarding the licensing of a motor vehicle operator. This administrative regulation establishes the minimum standards for a new driver state traffic school. This administrative regulation also designates those who will attend this new driver education program, application and approval procedures to teach the program for private driving schools licensed pursuant to KRS 332.030, and the method of notification to the cabinet of completion of the program. [KRS 186.410 requires each motor vehicle operator who obtains an operator's license prior to his 18th birthday to attend a driver education course. This course can be a driver's education course administered by a school district, state traffic school, or a course offered at a driver training school licensed pursuant to KRS Chapter 332 if the course meets or exceeds the minimum standards established by the Transportation Cabinet. KRS 186.574 requires the Transportation Cabinet to establish a state traffic school for new drivers and traffic offenders. This administrative regulation establishes the minimum standards for the approved driver training schools licensed pursuant to KRS Chapter 332. It establishes how the Transportation Cabinet is to be notified of completion of any of the three (3) types of courses allowed by KRS 186.410. It further clarifies who is required by KRS 186.410 to attend the driver education course.]

Section 1. State Traffic School. (1) The Transportation Cabinet shall establish a separate curriculum and class [separate curriculums and classes] for the new driver state traffic school (graduated driver licensing education) and the traffic offender state traffic school.

(2) The Transportation Cabinet [~~or its contractor~~] shall secure instructors and classroom locations for both of the state traffic schools.

(3) [~~The Transportation Cabinet's contractor shall notify the Transportation Cabinet of the name, address, Social Security or operator's license number of all persons successfully completing either of the state traffic schools. The notification shall include the date of completion and whether it was the graduated driver licensing education or the traffic offender state traffic school.~~]

(4) The Transportation Cabinet[~~s contractor~~] shall conduct at least two (2) new driver state traffic schools in every county every calendar year.

(4) [(5)](a) A person under the age of eighteen (18) years who obtained an operator's license prior to October 1, 1996:

(a) Shall not be required to attend a [~~one (1) of the~~] KRS 186.410(4) driver education course;

(b) May [courses];

(b) If a person under the age of eighteen (18) years who obtained an operator's license prior to October 1, 1996 chooses to do so, he shall be allowed to attend a new driver state traffic school free of charge.

Section 2. High School Driver Education Course. If a high school in Kentucky offers a driver education course for credit to its students, the school shall notify the Transportation Cabinet of a [each] student who receives credit for successfully completing the course. The notice shall contain the following information:

- (1) Student's name;
- (2) Student's Social security or operator's license number;
- (3) School district;
- (4) Name of high school;
- (5) Copy of the certification of course completion and credit given;
- (6) Date of course completion; and
- (7) Name and telephone number of person at school to contact.

Section 3. KRS Chapter 332 Licensed Driver Training Schools.

(1) A driver training school licensed under KRS Chapter 332 may apply to the Transportation Cabinet for approval to conduct a driver training program pursuant to KRS 186.410 if it:

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refusing to submit to a test to determine blood alcohol content or drugs in system;

(f) Have fewer than six (6) points assigned pursuant to 601 KAR 13:025 on his driving history record;

(g) Not have had his driving privilege withdrawn for any reason in the past five (5) years;

(h) Successfully enroll in, pay the \$100 fee for, and complete the instructor training course offered by the Transportation Cabinet[~~the contractor~~];

(i) Have good communication skills as indicated during an interview; and

(j) Be of good moral character.

(2) The approved school shall review the driving history record of an instructor annually. [Each approved instructor shall annually successfully enroll in, pay the \$100 fee for, and complete the instructor refresher course offered by the Transportation Cabinet[the contractor].

(3) An instructor shall be removed from the approved list if:

(a) He fails to continue to comply with the provisions of subsection (1) of this section; or

(b) The evaluation of an instructor's preclass and postclass tests do not show significant improvement in his students' understanding of highway safety.]

Section 6. Evaluations. (1) The Transportation Cabinet [~~or its contractor~~] shall perform a [both] random or [and] routine performance audit of an approved school or its instructor [audits of the approved schools and all instructors].

(2) A school shall be notified in writing of a [any] deficiency discovered in an audit. The deficiency shall be [immediately] corrected prior to its next scheduled class or the school's approval shall be withdrawn by the Transportation Cabinet.

(3) The Kentucky State Police shall be provided a copy of each performance evaluation of a school licensed pursuant to KRS Chapter 332 [322].

(4) A representative from the Transportation Cabinet shall be allowed free of any charge to monitor a class taught by the school pursuant to the provisions of this administrative regulation.

ED LOGSDON, Commissioner

JAMES C. CODELL III, Secretary

APPROVED BY AGENCY: January 2, 1997

FILED WITH LRC: January 7, 1997 at 10 a.m.

COMPILER'S NOTE: The following two administrative regulations, 811 KAR 1:020 and 811 KAR 1:035, were amended by the promulgating administrative body and the Interim Joint Committee on Licensing and Occupations. These two administrative regulations became effective March 14, 1997.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Racing Commission (As Amended)

811 KAR 1:020. Registration and identification of horses.

RELATES TO: KRS 230.630(1), (2), (3), 230.640(2)

STATUTORY AUTHORITY: KRS 230.260 [230.630(3), (4), (7)]

NECESSITY, FUNCTION, AND CONFORMITY: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this administrative regulation is to provide for the registration, ownership, identification and information concerning horses.

Section 1. Registration. All matters relating to registration of standardbred horses shall be governed by the rules of the United

States Trotting Association.

Section 2. Bona Fide Owner or Lessee. Horses not under lease must race in the name of the bona fide owner. Horses under lease must race in the name of the lessee and a copy of the lease must be recorded with the Kentucky [~~Harness~~] Racing Commission. Persons violating this rule may be fined, suspended or expelled.

Section 3. Program Information. (1) A printed program shall be available to the public at all meetings where purses are raced for. All programs shall furnish:

(a) Horse's name and sex.

(b) Color and age.

(c) Sire and dam.

(d) Owner's name.

(e) Driver's name and colors.

(f) Age and weight.

(2) At extended pari-mutuel meetings the following additional information shall be furnished.

(a) In claiming races the price for which the horse is entered to be claimed must be indicated.

(b) At least the last six (6) performance and accurate chart lines. An accurate chart line shall include: date of race, place, size of track if other than a half-mile track, symbol for free-legged pacers, track condition, type of race, distance, the fractional times of the leading horse including race time, post position, position of one quarter (1/4), one half (1/2), three quarters (3/4), stretch with lengths behind leader, finish with lengths behind leader, individual time of the horse, closing dollar odds, name of the driver, names of the horses placed first, second and third by the judges. The standard symbols for breaks and park-outs shall be used, where applicable.

(c) Indicate drivers racing with a provisional license.

(d) Indicate pacers that are racing without hobbles [hepples].

(e) Summary of starts in purse races, earnings, and best win time for current and preceding year. A horse's best win time may be earned in either a purse or nonpurse race.

(f) The name of the trainer.

(g) The consolidated line shall carry date, place, time, driver, finish, track condition and distance, if race is not at one (1) mile.

(h) All horses drawn into an early closer, a late closer, stake or futurity shall be listed on the official program.

Explanation:

Early closer - a race in which entries close at least six (6) weeks preceding the race.

Late closer - a race in which entries close less than six (6) weeks and more than three (3) days before the race is contested.

Futurity - a stake in which the dam of the competing animal is nominated.

Stake - a race which will be contested in a year subsequent to its closing.

Section 4. Failure to Furnish Reliable Program Information. May subject the track and/or program director to a fine not to exceed \$500 and the track and/or the program director may be suspended until arrangements are made to provide reliable program information.

Section 5. Inaccurate Information. Owners, drivers, or others found guilty of providing inaccurate information on a horse's performance, or of attempting to have misleading information given on a program may be fined, suspended or expelled.

Section 6. Check on Identity of Horse. Any track official, member of the Kentucky [~~Harness~~] Racing Commission or their agent, or owner, trainer or driver of any horse declared into a race wherein the question arises may call for information concerning the identity and eligibility of any horse on the grounds of a track, and may demand an opportunity to examine such horse with a view to establishing his

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claiming. Further, such horse shall be required to continue to race at the track where claimed for a period of thirty (30) days or the balance of the current racing meeting whichever comes first.

(12) Return of claimed horse to owner or stable. No horse claimed out of a claiming race shall be eligible to start in any race in the name or interest of the previous [original] owner for thirty (30) days, nor shall such horse remain in the same stable, or under the care or management of the first owner or trainer, or anyone connected therewith unless reclaimed out of another claiming race.

(13) Scratched horse. A horse scratched from a claiming race is not eligible to be claimed. The owner or trainer of a horse entered in a subsequent claiming race may request the judge to scratch the horse from that race. For a period of thirty (30) days, a horse entered in a claiming race but not in a subsequent claiming race, and is scratched, shall make the next start in a claiming race for a price not higher than the previous claiming price.

(14) Blood sample where horse is claimed. No blood sample shall be taken of a horse which has been claimed, if said horse has a valid veterinarian certificate within twelve (12) months of said claim, which certificate includes the horse's lip tattoo number and which is negative for Equine Infectious Anemia. In the event that said horse does not have said certificate, then a blood sample shall be taken immediately after the race in the paddock by a licensed veterinarian, and the sample identified as being from a claimed horse shall be forwarded within twenty-four (24) hours to an approved laboratory to be tested for Equine Infectious Anemia. Pending the receipt of a negative test for Equine Infectious Anemia the monies paid for the claimed horse shall be held by the track. In the event of a positive test for Equine Infectious Anemia the ownership of the claimed horse shall revert to the owner from whom the horse was claimed and the claiming monies shall be returned to the person or persons who claimed the horse. The cost of the test is to be borne by said owner and the test may be waived by the claimant at his discretion by so indicating on the claiming slip.

(15)(a) Any filly or mare which has been bred shall not be declared into a claiming race for at least forty-five (45) days following the last breeding of the mare, and thereafter such a mare may only be declared into a claiming race after a veterinarian has pronounced the mare not to be in foal. Any mare pronounced in foal shall not be declared into a claiming race.

(b) If [Where] a filly or mare is claimed out of a claiming race and subsequently proves to be in foal from a breeding which occurred prior to the race from which she was claimed, the claim may be voided by the judges at the option of the claimant provided the mare is subjected to a pregnancy examination between the 18th and 21st day of the date of the claim, and is found to be pregnant as a result of that pregnancy examination. A claimant seeking to void the claim must file a petition to bid said claim with the judges within ten (10) days after this pregnancy examination and shall thereafter be heard by the judges after due notice of the hearing to the parties concerned. If the judges determine that the claim is void hereunder, the claimant shall receive fifty (50) dollars from the previous [original] owner to cover the cost of the pregnancy examination.

Section 4. Subject to the conditions of Section 3(14) of this administrative regulation, the track shall pay the claiming price to the owner at the time the registration certificate is delivered for presentation to the successful claimant and shall withhold and pay the Kentucky sales tax to the Commonwealth as required by law.

Section 5. Claiming Conditions. Whenever possible claiming races shall be written to separate horses five (5) years old and up from young horses and to separate males from females. If sexes are mixed, mares shall be given a twenty (20) percent minimum price allowance, provided, however, that there shall be no price allowance given to a spayed mare racing in a claiming race. An allowance for age shall be given. Two (2) year olds shall be given a 100 percent

allowance, three (3) year olds fifty (50) percent allowance, and four (4) year olds twenty-five (25) percent allowance. Claiming races for two (2) year olds may be conditioned. Claiming races for three (3) year olds may be conditioned. The lowest claiming class written at a specific meeting may be conditioned.

Section 6. Minimum Price. No claiming race shall be offered permitting claims for less than the minimum purse offered at that time during the same racing week.

Section 7. Determination of Claiming Price. Except as provided in Section 3(11) of this administrative regulation, and except as provided in 811 KAR 1:030, Section 21, no horse owner shall be prohibited from determining the price for which his horse shall be entered.

Section 8. The current registration certificate of all horses entered in claiming races must be on file with the racing secretary together with a separate claiming authorization form signed by the registered owner or owners and indicating the minimum amount for which the horse may be entered to be claimed. To facilitate transfer of claimed horses the presiding judge may sign the transfer provided that he then send the registration certificate and claiming authorization to the registrar for transfer.

Section 9. Any person violating any of the provisions of this administrative regulation shall be fined, suspended or expelled.

Section 10. Fraudulent Claim. (1) If the judges determine that the declaration of any horse to a claiming race is fraudulent on the part of the declarer they may void the claim and at the option of the claimant order the horse returned to the person declaring it in.

(2) If the judges determine that any claim of a horse is fraudulent on the part of the person making the claim, they may void the claim and may, at the option of the person declaring it in, return the horse to the person declaring it in.

Section 11. (1) Should any stable be eliminated by sale or removal from the grounds, the right to claim is void. However, when a stable has been eliminated by claiming, the owner so affected shall have the right to claim a horse during the next thirty (30) racing days at any recognized meeting in this state even though all or a portion of the next thirty (30) racing days take place in the following calendar year. The owner or trainer of a stable eliminated by claiming shall get a written statement from the deputy commissioner or his assistant stating the date and place that the said stable was eliminated by claiming. Should such stable acquire a horse before availing itself of the privilege, then the privilege shall be void.

(2) Should any stable be eliminated by fire or other hazards, such stable shall have claiming privilege under the conditions indicated for the stable eliminated by claiming, at the discretion of the deputy commissioner or his assistant.

RICHARD "SMITTY" TAYLOR, Chairman

APPROVED BY AGENCY: October 14, 1996

FILED WITH LRC: October 15, 1996 at 11 a.m.

only.

(24) [(22)] "Postreview challenge period" means the thirty (30) days following the date of the notice of adjustment or the notice of no change following the review for modification of the child support order.

(25) [(23)] "Public assistance" means the receipt of K-TAP [(AFDC)], Medicaid, or foster care benefits.

(26) [(24)] "Responding state" means the state that is managing the child support case received from an initiating state.

(27) [(25)] "Unassigned arrearage" means any arrearage that accrues that is not assigned to the Cabinet for Families and Children [Human Resources].

(28) "Voluntary Acknowledgement of Paternity Form" is the form by which a mother and putative father voluntarily agree to the parentage of a child as specified by KRS 213.046, 405.430, 406.021 and 406.025.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: December 9, 1996

FILED WITH LRC: December 12, 1996 at 11 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Social Insurance
Division of Management and Development
(As Amended)

904 KAR 2:380. Child Support Enforcement Program application process.

RELATES TO: KRS 205.710-205.800, 205.992, 407.010 to 407.480, 45 CFR 302.31, 302.33-302.36, 302.50, 302.65, 302.80, 303.2, 303.3, 303.15, 303.30-303.31, 303.70

STATUTORY AUTHORITY: KRS 194.050, 205.710 to 205.800, 213.046, 405.430, 405.520, 406.021, 406.025, EO 96-862, PL 104-193

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children [Human Resources] shall administer the Child Support Enforcement Program [(CSEP)] in accordance with KRS 205.710 to 205.800. KRS 205.795 and 405.520 provide that the secretary shall develop administrative regulations to operate the CSEP in accordance with federal law and regulations. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Social Insurance and the Division of Child Support Enforcement under the Cabinet for Families and Children. This administrative regulation specifies the process by which an individual may apply for child support services and the scope of services available.

Section 1. Kentucky Transitional Assistance Program (K-TAP) [Aid to Families with Dependent Children (AFDC)] Process for Child Support Services. (1) As a condition of eligibility for assistance, each applicant for, or recipient of K-TAP [AFDC] shall make an assignment of rights to the state for support that the applicant or recipient may have from any other person.

(a) The assignment shall include all members of the case for whom support rights apply.

(b) The assignment shall be completed at the time of application for K-TAP [AFDC] benefits.

(2) A client shall cooperate in all phases of child support activity if his needs are included in a K-TAP [an AFDC] case, as specified in 904 KAR 2:006, Section 16.

(3) If the client states that "good cause" for noncooperation exists, he shall have the opportunity to establish his claim according to criteria contained in 904 KAR 2:006, Section 16.

(4) The child support agency shall open a case and determine needed action within twenty (20) calendar days of receipt of a referral

from the public assistance agency.

(5) Services provided to a K-TAP [an AFDC] recipient through the Child Support Enforcement Program shall include:

- (a) Location of the noncustodial [absent] parent, or obligor;
- (b) Establishment of paternity based upon the receipt of either:
 - 1. A court order; or

2. A notice from the Office of Vital Statistics that a signed, notarized voluntary acknowledgement of paternity has been registered;

(c) Establishment of child support and medical support obligations;

(d) Review and modification of child support and medical support orders when appropriate;

(e) Enforcement of child support, medical support, and maintenance obligations; and

(f) Collection and distribution of:

- 1. Child support amounts; and
- 2. Medical support amounts; and
- 3. Maintenance if the client is the spouse or ex-spouse.

Section 2. Foster Care Process for Child Support Services. (1) The child support agency shall collect and distribute child support on behalf of children for whom:

- (a) The state is making foster care maintenance payments as required by 42 USC 657; and
- (b) An assignment of rights has been made.

(2) The Department for Social Services worker with responsibility for the foster care child shall:

- (a) Cooperate with the child support agency;
- (b) Complete and forward the foster care child support referral;
- (c) Complete and forward the foster care child support change of status form when changes occur which relate to the child support process; and

(d) Forward copies of court documents pertaining to the child support process.

(3) "Good cause" for nonenforcement of child support for a foster care recipient exists when criteria contained in 904 KAR 2:006, Section 16 are met.

(4) Evidence for determination of good cause shall be as specified in 904 KAR 2:006, Section 16(5).

(5) The child support agency shall open a case and determine needed action within twenty (20) calendar days of receipt of a referral from the Department for Social Services.

(6) Services available to a foster care recipient shall include:

- (a) Location of the noncustodial [absent] parent, or obligor;
- (b) Establishment of paternity;
- (c) Establishment of child support or medical support obligations;
- (d) Enforcement of child support and medical support obligations;
- (e) Review and modification of child support or medical support orders when appropriate; and
- (f) Collection and distribution of child support payments.

Section 3. Medicaid Only Process for Child Support Services. (1) When a public assistance referral is received, the child support agency shall obtain the following information:

- (a) The Medicaid case number;
- (b) The name of the noncustodial [absent] parent, or obligor;
- (c) The Social Security number of the noncustodial [absent] parent, or obligor;
- (d) The name and Social Security number of the child;
- (e) The home address of the noncustodial [absent] parent, or obligor; and
- (f) The name and address of the noncustodial [absent] parent's, or obligor's, place of employment.

(2) An application for Medicaid shall include an assignment of rights for medical support, as specified in 907 KAR 1:011, Section 8.

(3) Except for a custodial parent [client] who is pregnant or in her

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monitor all incoming interstate cases and apprise other states of changes in interstate cases; and

(b) ~~The child support agency shall~~ Establish an interstate central registry responsible for:

1. Receiving and distributing incoming interstate requests; and

2. Responding to inquiries received from other states on interstate cases.

(3) Within ten (10) working days of receipt of an interstate case, the central registry shall:

(a) Ensure review of submitted documentation for completeness;

(b) Forward the case to the appropriate functional unit for case processing;

(c) Acknowledge receipt of the case and request missing documentation from the initiating state, if needed;

(d) Inform the initiating state of where the case has been forwarded for action.

(4) If case documentation is inadequate, the case shall be forwarded for any necessary action pending additional information from the initiating state.

(5) The central registry shall respond to other state inquiries within five (5) working days of receipt of request.

(6) The initiating agency state shall:

(a) Use long-arm statutory authority to establish paternity if statutory authority exists;

(b) Within twenty (20) calendar days of determining that the noncustodial ~~absent~~ parent, or obligor, is in another state, forward any necessary information and the case to the responding state's central registry for action.

(c) Provide the agency in the responding state sufficient and accurate information and documentation and the Interstate Child Support Enforcement Transmittal Form.

(d) Provide the child support agency or central registry in the responding state with any additional requested information or notify the responding state when the information will be provided within thirty (30) calendar days of receipt of the request.

(e) Notify the agency in the responding state within ten (10) working days of receipt of ~~the~~ new information by submitting updated forms or additional information.

(7) The responding state agency shall establish and use caseload procedures which ensure provision of necessary services including maintenance of case records. The agency shall periodically review program performance on interstate cases to evaluate the effectiveness of responding state procedures.

(8) The state shall ensure that the organizational structure and agency staff are adequate to provide administration and supervision to provide the following functions:

(a) Intake;

(b) Establishment of paternity;

(c) Establishment of a child support obligation and medical support obligation, or both;

(d) ~~(e)~~ Location;

(e) ~~(d)~~ Collection of current and past due child support, medical support, and maintenance payments;

(f) ~~(e)~~ Certification for federal or state tax refund intercept, or both;

(g) ~~(f)~~ Monitoring;

(h) ~~(g)~~ Enforcement of child support obligations, medical support obligations, and maintenance; and

(i) ~~(h)~~ Review and modification of child support and medical support obligations.

(9) Within seventy-five (75) calendar days of receipt of interstate forms and documentation, a responding state shall:

(a) Provide location services if requested and documentation is adequate; or

(b) If documentation is inadequate:

1. Notify the initiating state of necessary additions or corrections;

and

2. Process the interstate case to the extent possible pending initiating state action;

(c) Within ten (10) working days of locating a noncustodial ~~(an absent)~~ parent, or obligor, in a different jurisdiction within the state, the agency shall forward appropriate forms and documentation to that jurisdiction and notify the initiating state of its action.

(d) Within ten (10) working days of locating a noncustodial ~~(an absent)~~ parent, or obligor, in a different state, the agency shall return the work and documentation to the initiating state's central registry, or, at the direction of the initiating state, forward forms and documentation to the central registry of the state where the absent parent has been located. The initial responding state's central registry shall be notified where the case has been sent.

(e) The responding state shall provide any necessary services as it would in an intrastate case by:

1. Establishing paternity and obtaining judgment for prenatal costs, birthing expenses, and genetic tests upon establishment;

2. Establishing a child support obligation or medical support obligation, or both;

3. Reviewing cases for possible modification;

4. Processing and enforcing orders referred by another state;

5. Collecting and monitoring any support payment from a noncustodial ~~(an absent)~~ parent, or obligor and forwarding collections to a location specified by the initiating state not later than fifteen (15) calendar days from the initial date of receipt;

6. Providing sufficient identifying information to identify the case and date of collection or identify that the payment was made through state income tax refund offset and include the responding state's identifying code;

7. Providing timely notice to the initiating state in advance of formal hearings to establish or adjust a child support order;

8. Notifying the initiating state within ten (10) working days of receipt of new information; and

9. Notifying the interstate central registry in the initiating state when a case is closed.

(10) The child support agency in the responding state shall pay the costs it incurred in processing state agency interstate cases. However, the child support agency of the initiating state shall pay the costs of genetic testing to establish paternity.

(a) If the responding state is successful in establishing paternity, that state's child support agency shall attempt to obtain a judgment for the cost of genetic tests from the party who denied paternity.

(b) Recoupment of these costs may also be shared by each party as long as the total amount recouped does not exceed the actual costs of the genetic tests.

(c) If costs are recovered, the responding state shall reimburse the initiating state.

(d) The responding state shall identify fees and costs deducted from support payments when forwarding payments to the initiating state.

Section 8. Material Incorporated by Reference. (1) Forms necessary to establish a child support or medical support case through the Division of Child Support Enforcement are incorporated effective March 15, 1995. These forms include:

(a) ~~PA-125, revised 6/83;~~

(b) ~~PA-125 Supplement A, revised 6/83;~~

(c) ~~PA-125 Supplement B, revised 12/82;~~

(d) ~~PA-125.1, revised 5/90;~~

(e) ~~KA-125, revised 11/96 [7/92];~~

(b) ~~(f)~~ KA-125 Supplement A, revised 11/96 [7/92];

(c) ~~(g)~~ KA-125 Supplement B, revised 11/96 [7/92];

(d) ~~(h)~~ KA-125 Supplement C, revised 11/96 [7/92];

(e) ~~(i)~~ PA-121, revised 12/96 [8/87];

(f) ~~(j)~~ CS-11, revised 12/96 [issued 10/94];

(g) ~~(k)~~ CS-33, revised 2/97 [40/94];

(h) ~~(l)~~ CS-37, revised 2/97 [40/94];

- (a) ~~[By]~~ A court of competent jurisdiction; or
- (b) An administrative order.

(2) The amount of the obligation shall be:

(a) The amount determined in Section 2(4)(a) of this administrative regulation; or

(b) The amount determined by the child support guideline contained in KRS 403.212, as computed on Form CS-71, Commonwealth of Kentucky Worksheet, for a child support obligation administratively established by child support agency staff.

(3) The amount determined shall be for collection purposes. Any support payment collected shall reduce the amount of the obligation dollar for dollar.

(4) For all public assistance cases referred to the child support agency, or for those nonpublic assistance cases for which child support services are being provided, the agency shall use state statute and legal process in establishing a child support and medical support obligation, including KRS 405.430 and 454.220 ~~[454.200]~~.

(5) In addition to the deductions as specified in KRS 403.212(2), an administratively or judicially imputed child support obligation shall be determined by:

(a) 100 percent of the income of the parent with whom the child resides, when:

- 1. There is no support order; or
- 2. There is a support order but there is no support obligation worksheet; or

3. A worksheet cannot be obtained; or

(b) That parent's portion of the total support obligation as indicated on the worksheet, when:

- 1. There is a support order; and
- 2. A copy of the child support obligation worksheet can be obtained.

(6) Within ninety (90) calendar days of locating a noncustodial ~~(an absent)~~ parent, or obligor ~~(or of establishing paternity)~~, the child support agency shall: ~~[establish an order for support or document unsuccessful attempts to serve process.]~~

(a) Complete service of process; or

(b) Document unsuccessful attempts to serve process.

(7) When service of process has been completed, the child support agency shall, if necessary:

(a) Establish a child support obligation; or

(b) Establish paternity.

(8) [(7)] If a court or administrative authority dismisses a petition for support without prejudice, the agency shall, at that time, determine when to appropriately seek an order in the future.

Section 2. Administrative Establishment. (1) The cabinet may administratively establish a child support and medical support obligation when:

- (a) Paternity is not in question;
- (b) There is no existing order of support for the child;
- (c) The parent resides or is employed in Kentucky; and
- (d) The noncustodial ~~(absent)~~ parent's, or obligor's, address is known.

(2) The cabinet shall determine the monthly support obligation in accordance with the Kentucky child support guideline as contained in KRS 403.212.

(3) To gather necessary information for administrative establishment, the cabinet shall:

(a) Send to the custodial parent ~~(parental-client)~~:

- 1. A financial questionnaire;
- 2. A child care expense questionnaire; and
- 3. A medical support verification request.

(b) Send to the nonparental custodian ~~(client)~~:

- 1. A nonparental custodian ~~(client)~~ information request; and
- 2. A medical support verification request, if appropriate.

(c) Send to the noncustodial ~~(absent)~~ parent, or obligor:

- 1. An appointment letter;

- 2. A financial questionnaire;
- 3. A child care expense questionnaire; and
- 4. A medical support verification request.

(d) Send to the employer of the custodial parent, the nonparental custodian, ~~(parental-client)~~ or the noncustodial ~~(absent)~~ parent, or obligor, or all ~~(both)~~ if all ~~(both)~~ are employed, a wage information request.

(4) In a default case, the cabinet shall set the obligation based on the K-TAP ~~(AFDC)~~ standard of need for the child or children as specified in 904 KAR 2:016, Section 8 ~~(7)~~(2).

(5) The child support obligation may be retroactively modified upward, without a showing of change in circumstance, if, within two (2) years of the establishment of the order, evidence of gross income is presented which would have established a higher amount of child support pursuant to the child support guideline.

(6) After the monthly support obligation has been determined, the cabinet shall serve the notice of monthly support obligation upon the noncustodial ~~(absent)~~ parent, or obligor, in accordance with KRS 405.440.

(7) In accordance with KRS 405.430(3) ~~[(2)]~~, the cabinet may modify the monthly support obligation established by the cabinet.

(8) The cabinet shall not administratively modify any obligation which was established by a court of competent jurisdiction.

Section 3. Review and Adjustment of Child Support and Medical Support Orders. (1) The child support agency shall have a written and publicly available review and adjustment plan for child support orders.

(2) The child support agency shall review all public assistance cases which are thirty six (36) months old or older. Subsequent reviews shall occur at thirty six (36) month intervals based on the date:

- (a) The order was adjudicated;
- (b) It was determined the order should not be adjusted; or
- (c) Upon which the post review challenge period ended.

(3) All public assistance and nonpublic assistance cases shall be reviewed at the request of either parent, nonparental custodian, or any other person or entity that may have standing to request a modification subject to the child support order.

(4) The child support agency shall notify each parent subject to an order of the right to request a review.

(5) Within fifteen (15) calendar days of receipt of a review request, the child support agency must determine if a review shall be conducted.

(6) The child support agency shall notify each parent subject to a child support or medical support order of the review thirty (30) days prior to the review commencement.

(7) Within 180 days of determining that a review should be conducted, or of locating the nonrequesting parent, the child support agency shall:

- (a) Send a notice to each parent that a review will be conducted;
- (b) Conduct the review;
- (c) Send a notice of the result; and
- (d) Modify the order or determine that there will be no change.

Section 4. Appeal Procedures. (1) A parent, or any other person or entity that has standing or his authorized representative may request and be granted relief by a dispute hearing in accordance with KRS Chapter 13B.

(2) A request shall be made to the child support agency:

- (a) In writing;
- (b) In person; or
- (c) Orally, later reduced to writing within the time frames as specified in subsection (3) of this section.

(3) The written request for a dispute hearing shall be considered timely if:

(a) Made within twenty (20) days of receipt of an initial notice of monthly support obligation;

~~may act on behalf of wards as defined in that statute, and those individuals authorized to make health care decisions pursuant to KRS 311.620 and 311.631 may act on behalf of members, prospective members, or former members.]~~

(10) "Partnership" means an entity that meets the criteria [requirements] as established [shown] in Section 5 of this administrative regulation, and [a single legal entity established within a region that,] under contract with the department in accordance with KRS Chapter 45A, agrees to provide, or arrange for the provision of, health services to members, on the basis of prepaid capitation payments.

(11) "Partnership region" means a grouping of counties designated by the department as a geographical coverage area of a partnership health plan in Kentucky.

(12) "Primary care provider" means a licensed or certified health care practitioner who meets the description as established [shown] in Section 3(2) of this administrative regulation. [including a doctor of medicine, doctor of osteopathy, advanced registered nurse practitioner, including a nurse practitioner, nurse midwife and clinical specialist, and physician assistant, or clinic, including a primary care center and rural health clinic, that functions within the scope of licensure or certification, has admitting privileges at a hospital or a formal referral agreement with a provider possessing admitting privileges, and agrees to provide twenty-four (24) hour primary health care services to individuals.]

(13) [(42)] "Recipient" means an individual who is eligible to receive Medicaid services.

[(13) "Region" means a geographical area in Kentucky that is designated by the department for partnership services.]

(14) "Rural area" means those areas outside of the urban areas. ~~["Traditional Medicaid providers" means providers who currently characterize their encounters with Medicaid recipients to be thirty (30) percent of their practice or business within a partnership region.]~~

(15) "Urban area" means a metropolitan statistical area, as designated by the U.S. Office of Management and Budget, which contains an urban nucleus of at least 50,000 population, along with adjacent counties which have a high degree of economic and social ties, for a total metropolitan population of at least 100,000.

(16) "Urgent care" means care for a condition not likely to cause death or lasting harm but for which treatment should not wait for a normally scheduled appointment.

Section 2. General. (1) The department shall implement, within the Medicaid Program, a prepaid capitation managed care system to be known as the Kentucky Health Care Partnership Program. Partnerships shall be implemented and administered in accordance with the terms and conditions of the waiver granted by the Secretary, United States Department of Health and Human Services under the authority granted by 42 USC 1315.

(2) ~~[As partnerships are established within specified regions,] The Kentucky Health Care Partnership Program shall be implemented incrementally beginning [phased in] in two (2) partnership [all] regions [statewide]. The department shall not initiate a competitive bid in any partnership region prior to January 1, 1999, except in a partnership region where an operational partnership is dissolved or is terminated. After this date, the Cabinet for Health Services may arrange for the provision of Medicaid services as established in subsection (1) of this section.~~

Section 3. Recipient Participation. (1) Recipients required to participate in partnerships, unless excluded as established [shown] in Section 4 of this administrative regulation, shall include individuals who would have been eligible to receive Aid to Families with Dependent Children (AFDC) and Medicaid in accordance with [using] AFDC requirements as in effect as of July 16, 1996, as subsequently amended in accordance with 42 USC 1396u-1 ~~[Section 1931 of the Social Security Act]~~, and individuals who are eligible to receive Medicaid under the following Medicaid categories:

- (a) Children and family related;
- (b) Aged, blind, and disabled Medicaid only;
- (c) Pass through in accordance with 907 KAR 1:011;
- (d) Poverty level pregnant women and children;
- (e) State supplementation for aged, blind, and disabled;
- (f) Supplemental security income (SSI);
- (g) Each child under the age of twenty-one (21) years and in a psychiatric residential treatment facility (PRTF); ~~and]~~

(h) Each child under the age of eighteen (18) years, placed in foster care as defined [described] in 907 KAR 1:011 and under supervision of a Kentucky public or private child welfare agency shall be phased into the Partnership Program as a plan of care for the child is developed and implemented by the partnership [due to administrative and case management issues related to this group of children, each child within the group shall be phased into the Partnership Program as the administrative and case management issues relating to the child are resolved]; and

(i) Each child under the age of eighteen (18) years, adopted and has [have] special needs shall be phased into the Partnership Program as a plan of care for the child is developed and implemented by the partnership. [due to administrative and case management issues related to this group of children, each child within the group shall be phased into the Partnership Program as the administrative and case management issues relating to the child are resolved.]

(2) A member shall be allowed to select, from at least two (2) primary care providers servicing the member's assigned partnership, one (1) of which shall be [including] a physician, a primary care provider who shall:

(a) Be a licensed or certified health care practitioner, including a doctor of medicine, doctor of osteopathy, advanced registered nurse practitioner, including a nurse practitioner, nurse midwife and clinical specialist, physician assistant, or clinic, including a primary care center and rural health clinic, that functions within the scope of licensure or certification;

(b) Have admitting privileges at a hospital or a formal referral agreement with a provider possessing admitting privileges;

(c) Agree to provide twenty-four (24) hours a day, seven (7) days a week primary health care services to individuals; and

(d) For a member who has gynecological or obstetrical health care needs, disabilities or chronic illness, [complex conditions,] be a specialist who agrees to provide or arrange for all appropriate primary and preventive care directly or through linkage with a primary care provider. [The decision to utilize a specialist as the primary care provider shall be based on an agreement among the member, specialist and the partnership medical director.]

(3) The primary care provider voluntarily selected by the member shall be:

(a)] a primary care provider who participates in the member's assigned partnership. [and is located in the member's county of residence or an adjoining county; or

(b) If there are no partnership participating primary care providers in the member's county of residence or an adjoining county, during the initial enrollment period [and until the partnership enrolls a primary care provider that meets this criteria], a primary care provider who:

1.] participates in the partnership and is located within the member's partnership region or an adjoining region [or

2. Does not participate in the partnership, but is located within the partnership region.]

(4) [(3)] If voluntary selection of a primary care provider is not made by the member, the member's partnership shall assign the member to a primary care provider who [or the member refuses to select a primary care provider]:

(a) Has historically provided services to the member and meets the criteria of subsection (2) of this section and is a participating provider in the member's assigned partnership;

(b) Participates in the partnership and [The partnership shall

(3) Meet ~~[specified]~~ requirements established by ~~[ef]~~ KRS 304.17A-110(3);

(4) Meet ~~[specified]~~ requirements established by ~~[ef]~~ 42 CFR 417.479 and 434.44 through 434.70;

(5) ~~[(2)]~~ Meet ~~[specified]~~ requirements related ~~[pertaining]~~ to fiscal solvency and accessibility in accordance with 42 USC 1396b, including maintenance of an adequate number of health care providers to provide covered services to its members as required by ~~[shown in]~~ Section 7(1) of this administrative regulation ~~[set forth in the terms and conditions of the partnership contract];~~

~~[(3)]~~ ~~Agree to meet all nonnegotiable terms, conditions, and standards when contracting with the department. If health care financing administration's standards are more stringent than Kentucky contracting standards, Health Care Financing Administration's contract guidelines shall take precedence in accordance with the approved provisions of the 1116 Waiver; and]~~

(6) ~~[(4)]~~ Establish a governance body, or board of directors, that shall:

(a) Assume responsibility for establishing and implementing policies and procedures regarding health services delivery to members of the partnership;

(b) Broadly represent the partnership region's health services providers, including currently enrolled ~~[traditional]~~ Medicaid providers and other providers, including hospitals, primary care providers, specialty providers, nonphysician health professionals, dentists, primary care centers, public health departments, and the University of Louisville and University of Kentucky medical centers for regions in which they are located;

(c) Include at least four ~~(4)~~ ~~[(two-2)]~~ consumer representatives who ~~[-one-(1)-of-whom]~~ shall be [a] members of the partnership and represent each of the following categories of Medicaid recipients:

1. Children and family related;
2. Children with special health care needs;
3. Aged; and
4. Disabled adults.

(d) Be approved, in terms of composition as established by ~~[shown in]~~ paragraphs (b) and (c) of this subsection, by the department.

(7) ~~[(5)]~~ Demonstrate adequate protection against insolvency by:

(a) ~~Providing the department, within thirty (30) days of the partnership contract, a performance bond that equals one (1) month of projected capitation payments and names the department as obligee;~~

(b) ~~Sustaining a capital reserve equal to \$100,000, or an amount equal to one (1) percent of the anticipated annual premiums paid under the contract, whichever is greater; and~~

(c) ~~establishing and maintaining an insolvency reserve equal to [one (1) month's capitation per member to be held by a regulated financial institution and available to] the amount of the [department for paying partnership providers if a] partnership's net worth determined in accordance with specifications for a provider-sponsored integrated health delivery network set forth in KRS 304.17A-310 [becomes insolvent]. A partnership's reserve requirement shall be:~~

(a) Reduced by up to fifty (50) percent of an amount equal to the anticipated cost of health care services to be provided by hospitals that execute contracts with the partnership that contain requirements for continuation of services to members following partnership insolvency until the end of the period for which Medicaid capitation payments were received by the partnership.

(b) Met by any one (1) or a combination of the following methods:

1. Establishing an insolvency reserve in the amount of the partnership's net worth as specified in this subsection;

2. Maintaining insolvency insurance that shall be obtained through a reinsurer approved by the department and shall provide coverage for expenses incurred for members' health services from the date of insolvency until the end of the period for which Medicaid capitation payments were received by the partnership;

3. Providing the department with a bank letter of credit for an amount up to fifty (50) percent of the insolvency reserve amount; or

4. Providing a written guarantee to the department for the insolvency reserve amount from a regulated guarantor or provider sponsor or sponsors if the sponsor or sponsors restrict a portion of their assets equivalent to the value of the expenses or required reserves that the sponsor agrees to cover.

(8) ~~[(6)]~~ Be required to:

(a) Submit monthly financial statements to the department within forty-five (45) [thirty-(30)] days of the end of each month during the first year of operation and on a quarterly basis, or as designated by the department, thereafter. The financial statement shall include:

1. A balance sheet;
2. A statement of revenue and expenses;
3. Changes in partnership plan equity; [and]
4. A certification statement; and [Other reports designated by

the department through contracts in accordance with KRS Chapter 46A.]

5. Other financial reports relating to financial conditions and status.

(b) File a financial disclosure report, as required [approved] by the Health Care Financing Administration and pursuant to [in accordance with] 42 CFR Part 455, with the department within 120 [thirty-(30)] days of the end of the contract year and within forty-five (45) [thirty-(30)] days of entering into, renewing, or terminating any transaction with an affiliated party [in accordance with 42 CFR 455];

(c) Make available all books, records, and information related to [claims-for] member services and financial transactions of the partnership for review, inspection, auditing, and photocopying by authorized federal and state agency [department] reviewers and auditors. The books, records, information, and partnership staff shall be available upon request of these reviewers and auditors [the department] during routine business hours at the place of operations;

(d) Maintain all books, records, and information related to partnership providers, members and member services and financial transactions for a minimum of five (5) years in accordance with 907 KAR 1:672, Section 4(3) and (4), and for any additional time period as required [designated] by federal and state laws [the department]; and

(e) Immediately notify the department of anticipated or projected failure to meet partnership financial insolvency reserve requirements as established [shown] in subsection (7) of this section.

(9) Be required to cooperate with the department, Office of the Inspector General within the Cabinet for Health Services, and the Office of the Attorney General, in the control of fraud and abuse related to the medical assistance program as defined in KRS 205.8451 and in accordance with KRS 205.8453 and 194.030, Section 12, as required by Section 1128A-7(b)(11) of the Social Security Act, 42 CFR 455.21 and 42 CFR 1001.1301.

(10) Include specified providers in the partnership network or submit for the department's approval, documentation which establishes [supports] that services and service sites, as required by [shown in] Section 7(6) of this administrative regulation, shall adequately meet the needs of members if the specified providers are not included in the network. These providers shall include:

- (a) Teaching hospitals located in the partnership region;
- (b) Primary care centers, including federally qualified health centers and rural health clinics, that serve the partnership region;
- (c) The Kentucky Commission for Children with Special Health Care Needs; and
- (d) Public health departments that serve the partnership region.

(11) Use public health departments in the partnership network to:

(a) Provide at least the direct access services as established [shown] in Section 7(5)(a), (b), (f), and (g) of this administrative regulation;

(b) Collaborate in assessment of the health and health care needs of the member population and partnership region;

(6) Partnerships shall make services, service locations, and services sites available and accessible in terms of timeliness, amount, duration, and personnel sufficient to provide, or arrange for the provision of, all covered services on an emergency or urgent care basis, twenty-four (24) hours a day, seven (7) days a week. This shall include:

(a) Primary care delivery sites:

1. That are no more than thirty (30) miles or thirty (30) minutes from members in urban areas, and for members in rural areas, no more than forty-five (45) minutes or forty-five (45) miles from residence or place of employment.

2. With member to primary care provider ratios not to exceed 1500:1. [The department may approve exceptions to this standard with approval of Health Care Financing Administration.]

3. With appointment and waiting times, not to exceed thirty (30) days from date of a member's request for routine and preventive [evaluation and management] services and forty-eight (48) hours for urgent care.

(b) Specialty care. Referral appointments to specialists, except for specialists providing behavioral health services, shall not exceed thirty (30) days for routine care or forty-eight (48) hours for urgent care. Specialists shall be available for [commensurate with the] subpopulations designated in Section 10(1)(a)4 of this administrative regulation and include sufficient pediatric specialists to meet the needs of members under twenty-one (21) years of age.

(c) Emergency care. All emergency care shall be provided immediately, at the [nearest appropriate] health care facility most suitable for the type of injury, illness or condition, regardless of contracts.

(d) Hospitals. Except as provided by subparagraphs 1 and 2 of this paragraph, transport time shall not exceed thirty (30) minutes.

1. In rural areas, transport time shall:

a. Not exceed sixty (60) minutes; or

b. Be equivalent to that of recipients residing in a partnership region but not served by the partnership.

2. Transport time to physical health services associated with behavioral health and physical rehabilitative services shall not exceed sixty (60) minutes.

3. Exceptions established by this paragraph shall be justified and documented by the partnership. [Transport time shall not exceed thirty (30) minutes, except in rural areas where access time may be greater, and for physical health services associated with behavioral health and physical rehabilitative services where access shall not exceed sixty (60) minutes. If greater, transport time [the community standard] for accessing care shall be equivalent to that of recipients residing in a partnership region but not served by the partnership. Any [utilized, and] exceptions shall be justified and documented by the partnership [on the basis of community standards].]

(e) General dental services.

1. Transport time shall not exceed one (1) hour except as provided by subparagraph 2 of this paragraph.

2. In rural areas, transport time shall be equivalent to that of recipients residing in a partnership region, but not served by the partnership.

3. Exceptions established by this paragraph shall be justified and documented by the partnership.

4. Appointment and waiting times shall not exceed three (3) weeks for regular appointments and forty-eight (48) hours for urgent care. [Transport time shall not exceed one (1) hour, except in rural areas where transport time shall be equivalent to that of recipients residing in a partnership region but not served by the partnership. Any exceptions shall be justified and documented by the partnership. [community standards and documentation shall apply.] Appointment and waiting times shall not exceed three (3) weeks for regular appointments and forty-eight (48) hours for urgent care.]

(f) General vision, laboratory and radiology services.

1. Transport time shall not exceed one (1) hour except as provided for in subparagraph 2 of this paragraph.

2. In rural areas, transport time shall be equivalent to that of recipients residing in a partnership region but not served by the partnership.

3. Exceptions established in this paragraph shall be justified and documented by the partnership.

4. Appointment and waiting times shall not exceed three (3) weeks for regular appointments and forty-eight (48) hours for urgent care. [Transport time shall not exceed one (1) hour, except in rural areas where transport time shall be equivalent to that of recipients residing in a partnership region but not served by the partnership. Any exceptions shall be justified and documented by the partnership. [community standards and documentation shall apply.] Appointment and waiting times shall not exceed thirty (30) days for regular appointments and forty-eight (48) hours for urgent care.]

(g) Pharmacy services.

1. Transport time shall not exceed one (1) hour except as provided by subparagraph 2 of this paragraph.

2. In rural areas, transport time shall be equivalent to that of recipients residing in a partnership region, but not served by the partnership.

3. Exceptions established by this paragraph shall be justified and documented by the partnership. [Transport time shall not exceed one (1) hour, except in rural areas where transport time shall be equivalent to that of recipients residing in a partnership region but not served by the partnership. Any exceptions shall be justified and documented by the partnership.] [community standards and documentation shall apply.]

(h) Other services. Transport time to all covered services not specified in paragraphs (a) through (g) of this subsection shall be equivalent to that of [available to members as the same services are available to] recipients residing in the partnership region, but not served by the partnership. [Any exceptions shall be justified and documented by the partnership.] [partnerships according to community standards.]

(7) If a partnership fails to meet access standards as established [shown] in subsection (6) of this section, the partnership shall be required to submit a corrective action plan for approval by the department prior to implementation of the plan in order to improve members' access to services.

Section 8. Partnership Internal Grievance Procedure. (1) The partnership shall have an internal grievance procedure in place to resolve members' complaints with respect to health care services provided to them.

(2) The partnership grievance procedure shall be subject to approval by the department, and shall include the following components:

(a) Established written policies and procedures for the receipt, handling and disposition of complaints and grievances which shall:

1. Be approved by the partnership's governance body or board of directors;

2. Provide for participation in the process of individuals with authority to require corrective action;

3. Include a routine process for evaluation of patterns of complaints and grievances for impact on partnership policy and procedures;

4. Establish procedures for maintenance of records of complaints, grievances and appeals separate from member medical records;

5. Inform members and subcontractors about internal and state agency complaint, grievance and appeal processes;

6. Provide members with assistance in filing complaints and grievances, if the member requests assistance; and

7. Include assurances that there shall be no discrimination against a member solely on the basis that the member filed a grievance or made a complaint.

behavioral health and pharmacy services, by member's category of Medicaid and type of disability or chronic illnesses;

6. Health education program participation by members;

7. Specified Clinical studies related to primary health care and chronic illness; members' immunizations status, asthma, diabetes mellitus, anemia, health risk factors and birth outcomes;

8. Adverse health care incidents; and

9. Continuity of care, including coordination of physical and behavioral health services.

(2) The department's quality improvement ~~and access~~ advisory council ~~(committee)~~ shall:

(a) Advise the department about and recommend standards for the department's quality improvement and access plan;

(b) Advise the department about the selection of quality indicators, benchmarks and health care outcomes to monitor in partnerships;

(c) Review and make recommendations to the department about trends related to utilization of and access to services, findings from quality improvement studies, and member and partnership provider grievances; and

(d) Advise partnerships on quality improvement initiatives and studies.

(3) The department shall annually conduct an external retrospective medical audit based on reports and health services data received from partnerships which evaluates:

(a) Acute care hospital, ambulatory and emergency care;

(b) Access to care based on requirements as established ~~(shown)~~ in Section 7(6) of this administrative regulation; and

(c) EPSDT services.

(4) Each partnership shall:

(a) Establish a quality improvement program which continually evaluates access to care, continuity of care, health care outcomes and services provided, or arranged by, the partnership. The quality improvement program shall be approved on an annual basis by the department. Modifications to the program shall be approved in writing by the department. Functions of the program shall include:

1. Monitoring and evaluation of ~~(addresses at least the following:~~

~~(a)~~ access and continuity of care, including partnership provider ratios, points of access to specialists, distance to care and ~~(i)~~ waiting periods for services as established ~~(shown)~~ in Section 7(6) of this administrative regulation, and appropriate physical and language support in accordance with 20 USC Chapter 33;

2. Monitoring and evaluation of ~~(b)~~ procedures and criteria to credential and recredential partnership providers on a biennial basis. The criteria shall include verification of individual provider's:

a. License or certificate to practice;

b. Drug Enforcement Administration (DEA) number or certificate;

c. Graduation from medical school and completion of a residency, or accredited nursing, dental or vision program;

d. Professional board certification, eligibility for certification, or graduation from a training program to serve children with special health care needs under twenty-one (21) years of age;

e. Employment history;

f. Professional liability claims' history;

g. Clinical privileges and performance in good standing at the hospital designated by the provider as the primary admitting facility. This requirement may be waived for providers whose practice does not require admitting privileges;

h. Current, adequate malpractice insurance;

i. Revoked or suspended state license or DEA number;

j. Limited or suspended medical staff privileges;

k. Penalties imposed by the Medicare or Medicaid Program;

l. Censure by the state or county professional association;

m. Status in the national practitioner data bank and the state boards of examiners; and

n. Status among professional peers, including statements about physical or behavioral health conditions or illnesses, loss of license,

felony convictions, loss or limitation of privileges or any disciplinary activity and attestation to correctness or completeness of the application to become a partnership provider.

3. Monitoring and update of ~~(e)~~ goals and objectives of the partnership (a) quality improvement program;

4. Establishing ~~(d)~~ methods for taking corrective actions relating to quality improvement;

~~(e)~~ Methods to internally and externally review and evaluate the quality of health care, including health services data and quality of care studies;

5. Integrating ~~(f)~~ Methods to integrate quality improvement with other management activities, including changes in the access to partnership providers and member services; and

6. Monitoring and evaluation of ~~(benchmarks related to)~~ health care outcomes, including at least the members' risk factors, functional status, morbidity, mortality, readmissions to health care facilities, adverse incidents and complications, satisfaction with care and effect of education programs. The health care outcomes shall be based on the performance indicators and standards set forth in the HEDIS, as specified ~~(shown)~~ in subsection (1)(a)2 of this section.

~~(g)~~ Establish a quality and access advisory committee composed of partnership providers and health care researchers;

(b) Be accredited by a national accrediting agency of managed care organizations by the end of five (5) consecutive years of contracting with the department.

Section 11. Fiscal Penalties. (1) Subsequent to the testing and demonstration of the performance of the department's management information systems, ~~(Penalty:)~~ if a partnership knowingly fails to submit health care ~~(encounter)~~ data from processed claims, as required and specified by ~~(to)~~ the department ~~(in accordance with terms and conditions specified in the contract)~~, the department may ~~(shall reserve the right to)~~ withhold up to ten (10) percent of the partnership's capitation rate in ~~(for)~~ the month following nonsubmission of data. This amount withheld shall be returned to the partnership upon receipt and processing ~~(acceptance)~~ of the ~~(encounter)~~ data within five (5) days of receipt by the department.

(2) If a partnership fails to submit financial statements and reports required in Section 5(8)(a) of this administrative regulation the department shall impose the financial penalty established in subsection (1) of this section. The amount withheld shall be returned to the partnership within five (5) days of receipt by the department of the financial statements and reports. ~~(The department shall provide an annual list of the benchmarks based on health care outcomes as shown in Section 10(1)(a)2 of this administrative regulation and assess the partnership's achievement of the benchmarks. If the department determines benchmarks have not been achieved, a corrective action plan shall be submitted by the partnership to the department within two (2) months of notification. If no improvement in the achievement of benchmarks is demonstrated by the partnership within three (3) months following initiation of the corrective action plan, a penalty of up to one (1) percent of the partnership's capitation payment amount shall be imposed by the department in the subsequent months in which no improvement is made.)~~

Section 12. Termination of a Partnership Contract. The department shall ~~(have the right to)~~ terminate a partnership contract in accordance with KRS Chapter 45A ~~(administrative regulation 200 KAR 5:342, Section 2)~~.

Section 13. Termination of Partnership Providers or Subcontractors. (1) Any partnership provider or subcontractor of a partnership who engages in activities that result in their suspension, termination, or exclusion from the Medicare or Medicaid Program shall be terminated from participation in the Partnership Program.

(2) If a health care provider is suspended, terminated, or excluded

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Information Set (HEDIS), January 1997 edition" shall be incorporated by reference in this administrative regulation:

(a) Chapter one (1), two (2) and four (4), and sections of chapter three (3), including pages twenty-seven (27) through fifty-one (51), fifty-nine (59) through sixty-three (63) and sixty-five (65) in Volume One (1): Narrative;

2. [(b)] Pages nineteen (19) through sixty-seven (67) on effectiveness of care, pages 125 through 210 on use of services, page 217 on new member orientation and appendix one (1) in Volume Two (2): Technical Specifications; and

3. [(e)] Summary of changes pertaining to materials as specified [shown] in subsection (1)(a) and (b) of this section.

(b) "Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers (1996 Edition)", United States Department of Labor:

1. Pages four (4) through six (6): Hazard Prevention and Control; and

2. Page eight (8): Recordkeeping.

(2) This material may be inspected, copied or obtained at [reference shall be on file in] the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

(3) This material [reference] shall be available for review during the normal business week, Monday through Friday, 8 a.m. through 4:30 p.m. [(eastern standard time), excluding state holidays].

(4) Each partnership shall be provided one (1) copy of the material incorporated by reference and appropriate updates following the incorporation by reference. Additional copies may be obtained from the Department for Medicaid Services upon payment of an appropriate fee in accordance with KRS 61.872.

JOHN H. MORSE, Commissioner and Secretary

APPROVED BY AGENCY: February 14, 1997

FILED WITH LRC: February 14, 1997 at 11 a.m.

work days in a month to qualify for annual leave.

(b) Leave shall be credited on the first day of the month following the month in which the leave is earned. In computing months of total service for the purpose of earning annual leave, only those months for which an employee earned annual leave shall be counted.

(c) Former employees who have been reinstated and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where dismissal resulted from a violation of KRS 151B.090. Only those months for which the employee earned annual leave shall be counted in computing months of total service.

(4) The maximum accumulated annual leave which may carry forward from one (1) fiscal year to the next shall not exceed the following amounts:

Months of Service	Maximum Amount
0-59 months	Thirty (30) work days
60-119 months	Thirty-seven (37) work days
120-179 months	Forty-five (45) work days
180-239 months	Fifty-two (52) work days;
240 months and over	Sixty (60) work days

Leave in excess of the above maximum amounts shall be converted to sick leave at the end of the fiscal year or upon retirement. Months of service for the purpose of determining the maximum accumulation of annual leave and the amount to be converted to sick leave shall be computed as provided in subsections (1), (2), and (3) of this section. Annual leave shall not be granted in excess of that earned prior to starting date of leave.

(5) Absence due to sickness, injury, or disability in excess of that authorized for these purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(6) Taking annual leave.

(a) Accumulated leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees. An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the fiscal [calendar] year, up to at least the amount of time he earned that year.

(b) School-based employees shall take time off and be on some form of official leave status with the exception of paid state holidays during the following times:

1. Spring break.

2. Christmas break ~~[except on the four (4) official holidays normally given to state employees].~~

(c) In cases of emergency, the supervisor may request an employee to work during the above times without loss of annual leave.

(d) A teacher employed 228 days [to teach ten and one-half (10 1/2) months] may take annual leave outside the 228 day work year [ten and one-half (10 1/2) months,] provided that there is not enough opportunity to take annual leave during the 228 day [ten and one-half (10 1/2) month] employment year as determined by the school administrator [principal or school director] and the regional director.

~~(7) [Employees are charged with annual leave for absence only on days they would otherwise work and receive pay or on designated school closure days.~~

~~(8)~~ Employees shall be allowed up to two (2) professional leave days during the work year for the purpose of continuing staff development or participation in professional organization workshops and meetings without loss of pay.

~~(8)~~ Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

~~(9)~~ An employee who is transferred to the Department for

Adult Education and Literacy or the Department for [and] Technical Education shall retain his accumulated leave.

~~(10)~~ Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave and compensatory leave unless he has requested to retain up to ten (10) days of accumulated annual leave.

~~(11)~~ Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 151B shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contributions for life insurance and health benefits unless he worked for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for these benefits.

(d) Any employee who leaves the Department for Adult Educ~~ation and Literacy or the Department for [and] Technical Education~~ certified and equivalent personnel system on or prior to the fifteenth day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

~~(12)~~ Lump sum payment for accumulated annual leave.

(a) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in subsection (5) of this section when separated by proper resignation or retirement.

(b) In the case of layoff, the employee shall be paid in a lump sum for all accumulated leave.

(c) An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave.

(d) The effective date of the separation shall be the last work day.

~~(13)~~ An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in subsection (4) of this section.

~~(14)~~ Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

~~(15)~~ Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-half (1/2) hour.

Section 5. Sick Leave. (1) Employees in the certified and equivalent personnel system, except emergency, per diem, and part-time employees shall accumulate sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the workdays in a month to qualify for sick leave with pay. Each employee shall be credited with additional sick leave on the first day of the month following the month in which the sick leave is earned.

(2) Sick leave credits: full-time and former employees.

(a) Full-time employees completing 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

approval of and made on a form prescribed by the Commissioner and shall include:

- (a) The name of the donor.
- (b) The agency or office in which the donor is employed.
- (c) The position number of the donor.
- (d) The Social Security number of the donor.
- (e) The name of the employee to which leave is being donated.
- (f) The agency or office in which the donee is employed.
- (g) The donee position number.
- (h) The donee Social Security Number.
- (i) The maximum amount of the donor's leave in excess of seventy-five (75) hours which may be credited to the individual donee.
- (j) Certification by the donor that this donation is given without expectation or promise for any purpose other than that authorized by this administrative regulation.

(3) The donating employee shall retain a sick leave balance of not less than seventy-five (75) hours.

(4) A donating employee shall not sell, offer to sell, bargain, exchange, transfer, or assign accumulated sick leave for any consideration or in any manner other than that authorized by this administrative regulation.

(5) An employee with a medical emergency who has exhausted all annual leave, sick leave, and compensatory leave may make application to receive donation of sick leave from an employee (or employees) with a sick leave balance in excess of seventy-five (75) hours. Application may be made on behalf of the employee by a personal representative of the employee in the event of the employee's incapacity to make application on his own behalf.

(6) Application shall be made to the appointing authority on a form prescribed by the commissioner and shall include:

- (a) Employee name.
- (b) Position number.
- (c) Social Security number.
- (d) Employee title.
- (e) The reason transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency.
- (f) Signature of the requestor or his personal representative.

(7) The application shall be accompanied by certification by one (1) or more physicians of the medical reasons that the employee will be unable to perform the duties and responsibilities of this position for ten (10) or more consecutive working days.

(8) The appointing authority may require additional medical evidence prior to approval or denial of acceptance of sick leave donation. An employee may request an extension of approved, donated sick leave by presenting additional medical evidence to the appointing authority.

(9) At the end of each pay period while an employee is on donated leave, the appointing authority shall credit that employee's sick leave balance with the number of hours which would otherwise be considered leave without pay and shall reduce the donor's leave balance by that amount.

(10) No employee on donated sick leave shall be credited with leave in an amount in excess of the time of the documented medical emergency.

(11) No person shall through his office of employment use any promise, exchange, or influence to require an employee to donate excess sick leave or annual leave to any other employee.

(12) Sick leave shall not be transferred in increments of less than seven and one-half (7.5) hours.

(13) Where multiple donors donate sick leave to an eligible recipient, agencies shall transfer leave in chronological order of receipt of the donation forms, up to the maximum amount that has been certified to be needed by the recipient.

(14) The applicant for sick leave sharing shall be responsible for filing the appropriate medical certificates and applications. Donated sick leave shall not be used retroactively except to cover the period

between the first day sick leave would have been granted and the date of approval by the appointing authority.

(15) The sick leave sharing recipient shall be responsible for monitoring the amount of sick leave donated and used.

(16) Donated sick leave shall be used on consecutive days except as provided by Section 5(7)(e) of this administrative regulation. Any leave that an employee accrues while receiving donated sick leave shall be used before donated sick leave.

(17) When the recipient of donated leave returns to work, resigns, retires, or otherwise terminates from state employment, unused donated leave shall be restored to the donors, in chronological order of receipt of the donation forms, unless the recipient provides medical evidence that he or a member of his immediate family will require continued, periodic medical treatment relating to the original condition for which leave was donated.

(18) If a sick leave donor resigns, retires or is otherwise terminated from state employment before the donor's sick leave has been transferred to the recipient, such leave shall not be available for use by the recipient.

(19) An appointing authority may require a sick leave recipient to provide an updated medical certificate attesting to the continued need for leave after thirty (30) working days of sick leave.

Section 7. Family and Medical Leave. All leave utilized pursuant to Sections 4 and 5 of this administrative regulation that qualifies as family and medical leave in accordance with the Family and Medical Leave Act, 29 USC 2601, et seq., and the federal regulations promulgated thereto 29 CFR Part 825, shall be designated by the appointing authority as family and medical leave. [(1) Effective August 5, 1993, every employee in state service who has completed twelve (12) months of service and has worked at least 1,250 hours during the preceding twelve (12) months shall qualify for twelve (12) weeks of family and medical leave without pay. On the first day of January of each year thereafter every employee in state service who has completed twelve (12) months of service and has worked at least 1,250 hours during the preceding calendar year shall qualify for twelve (12) weeks of family and medical leave without pay. Unused family and medical leave shall not be carried over from year to year.

(2) Calculating a week of family and medical leave:

(a) A week of family and medical leave is the amount of time an employee normally works each week.

(b) If an employee's schedule varies from week to week, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the family and medical leave shall be used for calculating the employee's normal work week.

(c) If there has been a permanent or long-term change in the employee's schedule (for reasons other than family and medical leave), the hours worked under the new schedule shall be used for calculating the employee's normal workweek.

(3) The appointing authority shall grant family and medical leave upon the receipt of a completed application from an employee. The appointing authority shall require the employee to use accumulated sick, annual and compensatory leave prior to granting unpaid family and medical leave, except that the employee may request to reserve ten (10) days of paid sick leave. The amount of available family and medical leave shall be reduced by the amount of paid or unpaid leave used. A completed application consists of the request form and the medical certification required by subsection (6) of this section. The employee shall make the application as far in advance of the start of the leave as reasonable.

(4) Family and medical leave shall be granted:

(a) For the birth of a child of the employee, adoption by the employee of a child, or placement with the employee of a foster child. The appointing authority shall require a couple in the employ of the same agency to limit the total amount of family and medical leave to twelve (12) weeks where leave is sought in connection with the birth, adoption, or placement of a foster child or to care for a sick parent;

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leave.

(2) The appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of duty not to exceed six (6) years. All accumulated annual and compensatory leave may be paid in a lump sum, at the request of the employee, upon receiving this leave.

Section 10. Voting Leave. All employees who are eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting. This absence shall not be charged against leave. Employees who are not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis.

Section 11. Special Leave of Absence. (1) In addition to leave as above provided, the appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) The Commissioner of the Department for Adult Education and Literacy and the Department for Technical Education may grant leave of absence when requested by an employee for a period not to exceed twenty-four (24) months, with or without pay, for assignment to and attendance at college, university, vocational or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service. All employees granted this leave shall be guaranteed a position as similar as possible to the position held at the time of beginning of leave. Employees shall not be guaranteed the identical position held at time of beginning of leave.

(3) The appointing authority may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are deemed to be in the best interest of the state. All employees granted this leave shall be guaranteed a position as similar as possible to this position held at the time of the beginning of leave. Employees shall not be guaranteed the identical position held at the time of leave.

(4) The Commissioner of the Department for Adult Education and Literacy and the Department for Technical Education may grant a sabbatical leave of absence without pay when requested by a continuing status employee for a period not to exceed twelve (12) months for attendance at a college, university, vocational, business school or any other business and industrial training program for the purpose of retraining due to changing technology. If retraining occurs at a Kentucky Technical institution, the employee shall be exempt from tuition. Employees granted this leave shall be guaranteed a position as similar as possible to the position held at the time of beginning of leave, or if there is no similar position available, the first opening for a similar position for which the employee is qualified. Employees shall not be guaranteed the identical position held at the time of beginning leave.

(5) The appointing authority may place an employee on leave without pay for a period of time not to exceed sixty (60) working days pending an investigation into allegations of employee misconduct. Unless there is imminent danger to staff, students or other individuals, there shall be a preliminary hearing after which the employee shall be notified in writing by the appointing authority that he is being placed on leave without pay and of the reasons therefor. If the investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of leave, and all records relating to the investigation will be purged from the Department for Adult Education and Literacy and the Department for Technical Education files. The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken including those cases where the employee voluntarily resigns in the interim.

(6) Employees eligible for state contributions for life insurance and

health benefits under the provisions of KRS Chapter 151B, shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month;

(b) When an employee is unable to work and elects to use paid leave to qualify for state contributions for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contributions for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for these benefits.

(d) Any employee who leaves the Department for Adult Educa-tion and Literacy or the Department for and Technical Education certified and equivalent personnel system on or prior to the fifteenth day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

Section 12. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefor to his supervisor immediately. Unauthorized or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of absence. Absence without leave may constitute grounds for disciplinary action.

DONNA S. PENROSE, Vice Chair

RODNEY CAIN, Secretary

APPROVED BY AGENCY: March 12, 1997

FILED WITH LRC: March 13, 1997 at noon

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: The 1,451 certified and equivalent employees governed by the KRS Chapter 151B personnel system. Those 10 1/2 month employees who do not have enough opportunity to take their annual leave earned during the fiscal year will be affected by the amendment relating to taking of annual leave.

(2) Direct and indirect costs or savings on the: _____

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Decrease in cost for manual processing of separate pay checks for employees who had selected a 24 pay check option.

2. Second and subsequent years: Same as above

(3) Effects on the promulgating administrative body:

(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

(4) Assessment of anticipated effect on state and local revenues: Determined by how much annual leave the instructors use above their earned leave and the amount of reduction of the current number of

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~~technical update and school in service.~~

~~(c) Up to two (2) weeks may be approved for staff/industry exchange and other educational approved programs. The commissioner may request secondary instructors to perform other essential services for which extended employment shall be provided. These special requests shall be handled on an individual basis.~~

~~(2) All secondary instructors in state vocational/technical schools or area vocational education centers shall make an official request for extended employment to the regional executive director by April 15 and, by May 30 of each year, shall receive written notification of approved extended days.]~~

Section 6. [7.] [Effective July 1, 1991.] The **secondary** instructors employed **228 days will have** ~~[ten and one-half (10 1/2) months may request that] their **work year divided into** [salaries be paid in] twenty-four (24) **pay periods**, [paychecks. The last two (2) paychecks will be adjusted if necessary to reflect any salary variance due to changes in work schedules.]~~

Section 7. [8.] All **Kentucky TECH** schools ~~[including area centers, state vocational technical schools,]~~ and regional offices shall be officially closed to employees and students on the official holidays designated for Christmas and New Year's as well as the days in between. The employees shall be on some form of official leave status with the exception of the four identified paid holidays. The regional executive director may require an employee to work for safety or security reasons.

Section 8. [9.] Effective July 1, 1997, extended employment shall be eliminated except for specific activities approved by the State Board for Adult and Technical Education. ("Extended Employment for 10 1/2 Month Employee" incorporated by reference.) Applications for expanded work year [extended employment] shall be received by the Secretary of the State Board for Adult and Technical Education on or before April 15th in order to be considered for approval.

DONNA S. PENROSE, Vice Chair
RODNEY CAIN, Secretary

APPROVED BY AGENCY: March 12, 1997
FILED WITH LRC: March 13, 1997 at noon

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: The 361 state secondary vocational school personnel who are employed on a 10 1/2 month school year.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: Additional compliance, reporting, and paperwork will be required; however no new costs are anticipated.

1. First year following implementation: Decrease in cost for manual processing of separate pay checks for employees who had selected a 24 pay check option.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The State Board for Adult and Technical Education will have additional responsibilities with regard to approval of extended employment requests. There are no

anticipated direct or indirect costs.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There will be minimal reporting and paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: Determined by how much annual leave the instructors use above their earned leave and the amount of reduction of the current number of cumulative days of extended employment will generate an approximate savings of \$117,100.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: No public comments have been received.

(a) Geographical area in which administrative regulation will be implemented: Bimonthly salaries may not be equal.

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were suggested.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on public health or environmental welfare will result.

(b) State whether a detrimental effect on environment and public health would result if not implemented: If this amendment is not implemented, no detrimental effect would result.

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applied. The amendments will produce the same effect statewide. All employees must be treated the same in same or similar situations.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. No

2. State compliance standards. N/A

3. Minimum or uniform standards contained in the federal mandate. N/A

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

PUBLIC PROTECTION & REGULATION CABINET

Department of Insurance
(Amended After Hearing)

806 KAR 18:080. Association uniform data collection.

RELATES TO: KRS 304.18-020, 304.18-050

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.18-050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the Commissioner of Insurance may promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.18-050 allows eligible associations to offer group health insurance if approved by the Department of Insurance pursuant to Subtitle 18 and applicable administrative regulations promulgated

insurance market.

(8) Assessment of expected benefits: The department will be able to better understand and evaluate the health insurance market in Kentucky.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied equally to all associations offering group health insurance.

CABINET FOR HEALTH SERVICES

Department for Public Health

Division of Epidemiology

(Amended After Hearing)

902 KAR 2:020. Disease surveillance. [Reportable diseases.]

RELATES TO: KRS 211.180, 214.010, 333.130

STATUTORY AUTHORITY: KRS 194.050, 211.090

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources, established and created the Cabinet for Health Services, changed the name of the Department for Health Services to Department for Public Health, and placed the Department for Public Health and all its programs under the Cabinet for Health Services. KRS 211.180 mandates the Cabinet for Human Resources to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards as may be controlled. This administrative regulation is being promulgated to require notification to the local health department and the Department for Public Health, of diseases and conditions of public health importance. This notification facilitates rapid public health action to control diseases, and permits an accurate assessment of the health status of the Commonwealth. [This administrative regulation is being promulgated to achieve uniform reporting of selected diseases.]

Section 1. Definitions. (1) "Priority notification" means notification as required in Sections 2 and 4 of this administrative regulation shall be made within one (1) business day.

(2) "Routine notification" means notification as required in Sections 2 and 5 of this administrative regulation shall be made within five (5) business days.

(3) "Urgent notification" means notification as required in Sections 2 and 3 of this administrative regulation shall be made immediately in a time period not greater than twenty-four (24) hours, except as provided by Section 3(2) of this administrative regulation.

Section 2. Notification Standards. (1) Notification shall be given by a health professional licensed under KRS Chapters 311 through 314, and a health facility licensed under KRS Chapter 216B, when that professional makes a probable diagnosis of a disease listed in Sections 3, 4 or 5 of this administrative regulation, [and is] either as

defined in "Case Definitions for Public Health Surveillance" or by reasonable suspicion of the diagnosis.

(2) A single report by a hospital of a condition diagnosed by a test result from the hospital laboratory shall meet the requirements of subsections (1) and (5) of this section. The hospital may designate a single individual to report on behalf of both the laboratory and the hospital's clinical facilities.

(3) The notification shall be given to:

(a) The local health department serving the jurisdiction in which the patient resides; or

(b) The Department for Public Health.

(4) Except as provided for in Section 3(2) of this administrative regulation, the reporting professional shall furnish the name, address, and telephone number of the patient, as well as clinical, epidemiologic, and laboratory information pertinent to the disease.

(5) Upon the confirmation of a laboratory test result which indicates infection with an agent associated with one or more of the diseases or conditions listed in Sections 3, 4 or 5 of this administrative regulation, the director of a clinical laboratory licensed under KRS Chapter 333 shall:

(a) Report the result to:

1. The local health department serving the jurisdiction in which the patient resides; or

2. The local health department in which the laboratory is located, if that local health department is agreeable to distribute reports on residents of other jurisdictions; or

3. The Department for Public Health.

(b) Include in the report the demographic and clinical information available to the laboratory.

Section 3. Diseases Requiring Urgent Notification. (1) ~~[(2)]~~ Weekend or evening urgent notification.

(a) If health department personnel cannot be contacted directly, notification may be made by telephone to an emergency number, staffed either in person or with a tape recording, provided by the local health department or the Department for Public Health.

(b) For the protection of patient confidentiality, this notification shall include:

1. The name of the condition being reported; and

2. A telephone number that can be used by the department to contact the reporting professional.

(2) ~~[(4)]~~ Upon receipt of a report for a disease listed in subsection (3) of this section, the local health department shall:

(a) Immediately notify the Department for Public Health; and

(b) Shall assist the department in carrying out a public health response as instructed.

(3) The following diseases shall require urgent notification in accordance with Sections 1(3) and 2 of this administrative regulation and this section:

(a) Anthrax;

(b) Botulism;

(c) Cholera;

(d) Diphtheria;

(e) Encephalitis, California group;

(f) Encephalitis, Eastern equine;

(g) Encephalitis, St. Louis;

(h) Encephalitis, Western;

(i) Group A streptococcal infection, invasive;

(j) Hansen's Disease;

(k) Hantavirus infection;

(l) Hemophilus influenzae invasive disease;

(m) Measles;

(n) Meningococcal infections;

(o) Pertussis;

(p) ~~[(e)]~~ Plague;

(q) ~~[(f)]~~ Poliomyelitis;

(r) ~~[(g)]~~ Psittacosis;

(3) [Reports of CD4+ cell test results, regardless of county of residence, shall be reported on a monthly basis to the HIV/AIDS Program of the Department for Public Health or as directed by the HIV/AIDS surveillance coordinator.]

(4) Reports for persons with HIV infection without a diagnosis of AIDS shall be identified by the initials of the patient's first and last name and shall include:

- (a) Date of birth;
- (b) Gender;
- (c) Race;
- (d) Risk factor, as identified by CDC, if known;
- (e) County of residence;
- (f) Name of facility submitting the report;
- (g) Date and type of tests performed;
- (h) Results of tuberculosis testing, if available;
- (i) Identifying and locating information for the person's spouse, if applicable.

(4) [(6)] Reports of AIDS cases shall include the patient's full name and the information in subsection (4)(a) through (h) of this section; and

- (a) The patient's complete address;
- (b) CD4+ cell count, if known;
- (c) Opportunistic infections diagnosed;
- (d) Date of onset of illness.

(5) [(6)] Reports of AIDS shall be made whether or not the patient has been previously reported as having HIV infection. If the patient has not been previously reported as having HIV infection, the AIDS report shall also serve as the report of HIV infection.

[(7) Reports of all CD4+ test results shall include the patient's name and:

- (a) Date of birth;
- (b) Gender;
- (c) Name of health professional ordering the test;
- (d) Date the test was performed or ordered;
- (e) The absolute cell count or relative percentage.]

Section 9. Reporting of Communicable Diseases in Animals. (1) Every veterinarian licensed under KRS Chapter 321, upon arriving at a probable diagnosis in an animal of a condition known to be communicable to humans, shall report the occurrence within one (1) business day to:

- (a) The local health department in which the animal is located; or
- (b) If the local health department cannot be reached, the Department for Public Health.

(2) Upon the confirmation of a laboratory test result which indicates infection of an animal with an agent associated with a condition known to be communicable to humans, the director of a clinical laboratory licensed under KRS Chapter 333 shall, within one (1) business day, report the result to:

- (a) The local health department serving the jurisdiction in which the animal is located; or
- (b) To the Department for Public Health.
- (3) The local health department:
 - (a) Shall investigate the report and carry out public measures appropriate to the condition;
 - (b) Shall notify the Department for Public Health of the occurrence, in writing, within five (5) business days; and
 - (c) May seek assistance from the Department for Public Health.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference in this administrative regulation:

- (a) "Morbidity and Mortality Weekly Report; Case Definitions for Public Health Surveillance", MMWR, October 19, 1990, Volume 39, Number RR-13, published by the Epidemiology Program Office, Centers for Disease Control and Prevention, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia;
- (b) "Adult HIV/AIDS Confidential Case Report (CDC 50.42A,

Revised July, 1993)"; and

(c) "Pediatric HIV/AIDS Confidential Case Report form (CDC 50.42B, Revised March, 1995)".

(2) Material incorporated by reference may be reviewed, copied, or obtained at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky, 40621. [Reportable Diseases. Time of Reporting. Because of their public health significance, the following diseases and occurrences are declared to be reportable within the time period specified below. All cases shall be reported.

(1) Diseases to be reported within twenty-four (24) hours. The following diseases and occurrences shall be reported individually within twenty-four (24) hours of arriving at a probable diagnosis:

- (a) Animal bites;
- (b) Anthrax;
- (c) Botulism (other than infant);
- (d) Campylobacteriosis;
- (e) Cholera;
- (f) Diphtheria;
- (g) Escherichia coli 0157:H7;
- (h) Encephalitis;
- (i) Gonococcal infections (all suspected or confirmed antibiotic-resistant strains);
- (j) Hepatitis (viral);
- (k) Measles (rubeola);
- (l) Meningitis and other invasive disease caused by Haemophilus influenza type b;
- (m) Meningitis caused by Neisseria meningitidis;
- (n) Meningococcemia;
- (o) Pertussis (whooping cough);
- (p) Plague;
- (q) Poliomyelitis;
- (r) Rabies (human);
- (s) Rubella (including congenital rubella syndrome);
- (t) Salmonellosis;
- (u) Shigellosis;
- (v) Syphilis (primary, secondary, congenital, and other infections suspected to be under one (1) year's duration);
- (w) Trichinosis;
- (x) Tuberculosis;
- (y) Typhoid fever;
- (z) Yellow fever;
- (aa) Yersiniosis;
- (bb) A suspected epidemic of any disease; and
- (cc) Positive tuberculin skin tests in children six (6) years of age and under.

(2) Diseases to be reported within seven (7) days. The following diseases shall be reported individually within seven (7) days of diagnosis:

- (a) AIDS (acquired immunodeficiency syndrome);
- (b) Amebiasis;
- (c) Botulism (in an infant);
- (d) Brucellosis;
- (e) Chancre;
- (f) Chlamydia infections;
- (g) Cryptosporidiosis;
- (h) Ehrlichiosis (human);
- (i) Giardiasis;
- (j) Gonococcal infections (other than antibiotic-resistant strains);
- (k) Granuloma inguinale;
- (l) Herpes simplex infections (genital);
- (m) Histoplasmosis;
- (n) Human immunodeficiency virus (HIV) infections;
- (o) Kaposi's Sarcoma;
- (p) Kawasaki's disease;
- (q) Lead poisoning;
- (r) Legionellosis;
- (s) Leprosy;

the economic impact, including effects of economic activities arising from the administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public hearing was requested and comments received identified no economic impact.

(b) Kentucky: See 6(a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 211.180 requires the cabinet to establish a program to control disease and to adopt administrative regulations to carry this out.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The systematic collection, tabulation, analysis and dissemination of data to determine the incidence and prevalence of disease among the citizenry provide public health practitioners the basis for planning prevention and control programs, i.e. need for immunizations or the control of a food or water borne disease outbreak.

(b) State whether a detrimental effect on environment and public health would result if not implemented: See 8(a) above.

(c) If detrimental effect would result, explain detrimental effect: See 8(a) above.

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: No conflict, overlap, or duplication is known to exist.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. Tiering was not applied because all entities are regulated in the same manner.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development
(Amended After Hearing)

907 KAR 1:450. Nurse aide training criteria and registry.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, 42 USC 1396r, EO 96-862 [95-79]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Medicaid Program. Executive Order 96-862 [95-79], effective July 2, 1996, reorganized [December 28, 1996, reorganizes] the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 empowers the cabinet, by administrative 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 administrative regulation sets forth the nurse aide training and competency evaluation program requirements and specifies the establishment and function of the nurse aide registry.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Health Services.

(2) "Competency evaluation program" means the competency evaluation program required by 42 USC 1396r for nurse aides employed by Medicaid participating nursing facilities prior to October 1, 1989, when the program is approved by the state in which the nursing facility is located.

(3) "Department" means the Department for Medicaid Services and its designated agents and representatives.

(4) [(2)] "Licensed health professional" means a:

- (a) Physician;
- (b) Physician assistant;
- (c) Nurse practitioner;
- (d) Physical, speech, or occupational therapist;
- (e) Registered [professional] nurse;
- (f) Licensed practical nurse;
- (g) Registered dietitian; or
- (h) Licensed or certified social worker.

(5) [(3)] "Nurse aide" means any individual, including nursing students, medication aides and those employed through nursing pools, providing nursing or nursing-related services to residents in a nursing facility, excluding:

(a) [but does not include] An individual who is a licensed health professional; [or]

(b) Volunteers who provide the nursing or nursing-related services without monetary compensation; and

(c) Persons who are hired by the resident or family to sit with the resident.

(6) [(4)] "Nurse aide training and competency evaluation programs (NATCEP)" means the program(s) of nurse aide training and competency evaluation for nurse aides, [required by] 42 USC 1396r requires that these programs [to] be in place for Medicaid participating nursing facilities, when the program is approved by the state in which the nursing facility is located.

(7) [(5)] "State approved program" means the nurse aide training and competency evaluation program requirements established by [shown in] the [manual entitled] "Medicaid Services Manual for Nurse Aide Training and Competency Evaluation Program [Manual]" [revised November 1, 1992 which is hereby incorporated by reference]. [Nurse aide training and competency evaluations shall be performed by or for nursing facilities located in the Commonwealth [state] of Kentucky in accordance with the terms, conditions, and criteria specified for a state approved program as designated in the manual specified in this subsection for the state approved program.]

(8) [(6)] "Supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or a licensed practical nurse.

Section 2. [Material Incorporated by Reference. (1) The "Medicaid Services Manual for Nurse Aide Training and Competency Evaluation Program", dated January 1996 shall be incorporated by reference in this administrative regulation.

(2) The manual shall be on file in the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 276 East Main Street, Third Floor East, Frankfort, Kentucky 40621.

(3) The manual shall be available for review during the normal business week, Monday through Friday, 8 a.m. through 4:30 p.m. (eastern standard time), excluding state holidays.

(4) Each participating in-state provider shall be provided one (1) copy of the manual and appropriate manual updates following their incorporation by reference. Additional copies may be obtained from the Department for Medicaid Services upon payment of an appropriate fee which approximates cost in accordance with KRS 61.872.

Section 3. [2.] General Requirements. (1) A participating nursing facility shall not use an individual as a nurse aide on a permanent basis, as follows: [s on or after October 1, 1999]

(a) [(1)] For more than four (4) months unless the nurse aide has completed the:

(b) [(a)] Nurse aide training and competency evaluation program; [or]

(c) [(b)] The competency program if the individual was used by the facility prior to October 1, 1989 as a nurse aide; or

(d) [(c)] Is deemed to meet the competency evaluation prior to January 1, 1989, as specified in the manual for the approved state program].

Section 10. Material Incorporated by Reference. (1) The "Medicaid Services Manual for Nurse Aide Training and Competency Evaluation Program", dated March 1997 shall be incorporated by reference in this administrative regulation.

(2) The manual shall be on file in the office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky, 40621.

(3) The manual shall be available for review during the normal business week, Monday through Friday, 8 a.m. through 4:30 p.m. (eastern standard time), excluding state holidays.

(4) Excluding Mosby's Textbook for Long-term Care Assistants, each participating provider shall be provided one (1) copy of the manual and appropriate manual updates following their incorporation by reference. Additional copies may be obtained from the Department for Medicaid Services upon payment of an appropriate fee in accordance with KRS 61.872.

~~[Section 11. Implementation Date. The amendments to this administrative regulation shall be applicable with regard to services provided on and after March 1, 1997.]~~

~~[Section 10. The manual incorporated by reference in this administrative regulation may be reviewed Monday through Friday between the hours of 8 a.m. and 4:30 p.m., Eastern time, in the Office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky. Copies may be obtained from that office upon payment of an appropriate fee which shall not exceed approximate cost.]~~

JOHN H. MORSE, Commissioner, Secretary
APPROVED BY AGENCY: March 4, 1997
FILED WITH LRC: March 6, 1997 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick or Karen Doyle

(1) Type and number of entities affected: Nursing facility and nurse aides employed by Medicaid participating nursing facilities.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Budget neutral.

2. Continuing costs or savings: Budget neutral.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: No public comments were received during the

public hearing process; therefore, we anticipate no economic impact from this administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Medicaid recipients will continue to have adequate access to nursing facility services.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Medicaid recipients may not have adequate access to nursing facility services if nursing facilities were found out of compliance with 42 USC 1396r and could not participate in the Medicaid Program.

(9) 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:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions or arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

health would result if not implemented: Not applicable.

(c) If detrimental effect would result, explain detrimental effect:

(9) 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: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No, since all health care professionals are treated similarly and all nonhealth care professionals, i.e., hospitals, are treated similarly.

**GENERAL GOVERNMENT CABINET
Real Estate Commission
(Amendment)**

201 KAR 11:400. Agency disclosure requirements.

RELATES TO: KRS 324.160(1)(e)

STATUTORY AUTHORITY: KRS 324.160(1)(e), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.382

authorizes the Real Estate Commission to promulgate administrative regulations necessary to implement KRS Chapter 324. KRS 324.160(1)(e) permits the commission to take disciplinary action when a licensee acts for more than one (1) party in a transaction without the knowledge of all parties. This administrative regulation describes and requires disclosure of relationships between brokers, sales associates, and consumers.

Section 1. Definitions. (1) "Delivery" means delivery of an item to a prospective party or his broker or sales associate by:

- (a) Mail;
- (b) FAX transmission;
- (c) Messenger; or
- (d) Hand.

(2) "First contact" means the period:

(a) Before a contract containing a duty of representation and compensation is entered into by a:

1. Prospective party who does not have a broker or sales associate; and

2. A broker or sales associate who has offered to represent him.

(b) Before the beginning of discussions relating to a real estate transaction between a:

1. Prospective party who does not have a broker or sales associate; and

2. A broker or sales associate who has proposed to discuss the real estate transaction with him.

(3) "First substantial contact" means the period before a written offer to purchase is presented.

(4) "Prospective party" means a person who:

- (a) Enters a listing contract as a seller;
- (b) Enters a buyer broker agreement as a buyer; or
- (c) Seeks or uses the services of a broker or sales associate.

(5) "Prospective party who is represented by a broker or sales associate" means a person who has entered into a current listing contract, or buyer broker agreement with a broker or sales associate.

Section 2. The provisions of this administrative regulation shall not apply to:

- (1) Sales of real estate at auction; or
- (2) Property management of real estate.

(3) Commercial transactions. Commercial means any transaction other than sales of owner-occupied single family residential or agricultural property and sales of single family residential lots.

Section 3. Prospective Party Information. (1) A broker or sales

associate shall deliver to a prospective party an:

(a) "Agency Information For Consumers Bulletin", on the first contact; and

(b) "Agency Disclosure Form", on the first substantial contact.

(2) An "Agency Disclosure Form" shall:

(a) Be signed by each:

1. Prospective party to the transaction; and

2. Broker or sales associate involved in the transaction; and

(b) Identify:

1. Each prospective party known to the broker or sales associate making the disclosure except that prospective parties who intend to buy or rent for a nonowner occupant residential use who direct that their identity not be disclosed in writing, shall not be identified;

2. If a prospective party is represented by a broker or sales associate, the name of the broker or sales associate, his real estate company, and whom they represent except as provided in subparagraph 1 of this paragraph; and

3. The real estate that is the subject of the negotiation;

(c) Describe the personal, family, or business relationships between:

1. The broker or sales associate making the disclosure; and

2. Each prospective party known to the broker or sales associate when the disclosure is made;

(d) State whether the broker or sales associate making the disclosure is acting as a principal as a prospective:

- 1. Seller;
- 2. Buyer;
- 3. Lender; or
- 4. Investor.

(3) The "Agency Disclosure Form" and the "Agency Information For Consumers Bulletin" required by subsection (1) of this section shall be:

(a) The "Agency Disclosure Form Approved By Kentucky Real Estate Commission", and the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission"; or

(b) An Agency Disclosure Form, and Agency Information For Consumers Bulletin, that have been developed by the broker or sales associate and approved by the commission.

(4) An "Agency Information For Consumers Bulletin" developed by a licensee:

(a) Shall consist of the material contained in the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission"; and

(b) May contain the principal broker's logo and be in a format that differs from the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission".

(5)(a) An "Agency Disclosure Form" or "Agency Information For Consumers Bulletin" that has been developed by the broker or sales associate, shall be submitted to the commission for approval.

(b) The general counsel of the commission shall:

- 1. Review the form or bulletin;
- 2. Make a recommendation to the commission that the form or bulletin be approved or disapproved; and
- 3. Inform the broker or sales associate of the commission's decision.

Section 4. Commission Review of Licensee Documents. The commission shall:

(1) Review licensee listing agreements, buyer broker agreements, and purchase agreements;

(2) Approve agreements that it determines contain the information required by this administrative regulation; and

(3) Inform licensees of commission action.

Section 5. Incorporation By Reference. (1) The following documents are incorporated by reference:

(a) "Agency Disclosure Form Approved By Kentucky Real Estate

314 requires that standards in the performance of advanced registered nursing practice be established by administrative regulation to safeguard the public health and welfare.

Section 1. Definitions. (1) "Established protocol" means a written document jointly approved by the physician and the advanced registered nurse practitioner delineating the areas of practice for the advanced registered nurse practitioner, which is reviewed at least annually ~~[and includes these areas of practice related to diagnostic tests, and prescription of medications and treatments]~~. In delineating the areas of practice in the established protocol, the advanced registered nurse practitioner shall conform to the standards of practice of the appropriate nursing organization incorporated by reference in Section 2 of this administrative regulation. Any limitations beyond that set out in the scope and standards of practice statements shall be delineated in the established protocol.

(2) "Collaborative practice agreement" means a written document jointly approved by the advanced registered nurse practitioner and at least one (1) physician which defines the scope of prescriptive authority for the advanced registered nurse practitioner. In this context, collaboration refers to the relationship between the advanced registered nurse practitioner and physician(s) in the provision of prescription medication. The collaboration includes both autonomous and cooperative decision-making, with advanced registered nurse practitioners and physicians contributing their respective expertise.

Section 2. The practice of the advanced registered nurse practitioner shall be in accordance with the standards and functions defined in the scope and standards of practice statements for each specialty area as adopted by the board. The board has adopted the following scopes and standards of practice of those national organizations recognized pursuant to 201 KAR 20:056, Section 3(2):

(1) American Nurses' Association, The Scope of Practice of the Primary Health Care Nurse Practitioner, 1985, Standards of Practice for the Primary Health Care Nurse Practitioner, 1987;

(2) American Nurses' Association, a Statement on Psychiatric - Mental Health Clinical Nursing Practice and Standards of Psychiatric - Mental Health Clinical Nursing Practice, 1994;

(3) American Nurses' Association, Statement on the Scope of Medical-Surgical Nursing Practice, 1980;

(4) American Nurses' Association, The Role of the Clinical Nurse Specialist, 1986;

(5) American Association of Nurse Anesthetists, Scope of Practice, 1992 Standards for Nurse Anesthesia Practice, 1989, and Patient Monitoring Standards, 1992;

(6) American College of Nurse-Midwives, Standards for the Practice of Nurse-Midwifery, 1993;

(7) Association of Women's Health, Obstetric and Neonatal Nurses and National Association of Nurse Practitioners in Reproductive Health, The Women's Health Nurse Practitioner: Guidelines for Practice and Education, 1996; [Nurses' Association of the American College of Obstetricians and Gynecologists (now known as the Association of Women's Health, Obstetric, and Neonatal Nurses), The OB/GYN Women's Health Nurse Practitioner, Role Definition, Competencies and Educational Guidelines, 1990;]

(8) National Association of Nurse Practitioners in Reproductive Health, Standards of Practice and Education for the Women's Health Nurse Practitioner, 1994;

(9) National Association of Pediatric Nurse Associates and Practitioners, Scope of Practice for Pediatric Nurse Practitioners, 1990, Standards of Practice for Pediatric Nurse Practitioners, 1987;

(10) ~~[(9)]~~ American Academy of Nurse Practitioners, Standards of Practice, 1993[;] and

~~[(10)] American Academy of Nurse Practitioners;~~ Scope of Practice for Nurse Practitioners, 1993;

(11) American Nurses' Association/American Association of Critical Care Nurses, Standards of Clinical Practice and Scope of

Practice for the Acute Care Nurse Practitioner, 1995; and
(12) National Association of Neonatal Nurses, Neonatal Nurse Practitioners: Standards of Education and Practice, 1992.

Section 3. In the performance of advanced registered nursing practice ~~[aete]~~, the advanced registered nurse practitioner shall practice in accordance with established protocol and the collaborative practice agreement and shall seek consultation or referral in those situations outside the advanced registered nurse practitioner's scope of practice. ~~[where practice requirements are not included in the established protocol.]~~

Section 4. Advanced registered nursing practice shall include prescribing treatments, drugs and devices and ordering diagnostic tests which are consistent with the scope and standard of practice of the advanced registered nurse practitioner.

Section 5. Advanced registered nursing practice shall not preclude the practice by the advanced registered nurse practitioner of registered nursing practice as defined in KRS 314.011(5).

Section 6. An advanced registered nurse practitioner who has a written collaborative practice agreement pursuant to KRS 314.042(8) shall file a copy of it with the board within thirty (30) days of entering it. The agreement shall include the name, address, phone number and license or registration number of both the advanced registered nurse practitioner and physician(s). It shall also include the specialty area of practice of the advanced registered nurse practitioner. Any change in the collaborative agreement shall be reported to the board within thirty (30) days.

Section 7. Prescribing without a written collaborative practice agreement shall constitute a violation of KRS 314.091(1).

Section 8. The board may make unannounced monitoring visits to an advanced registered nurse practitioner.

LINDA J. THOMAS, President

APPROVED BY AGENCY: February 14, 1997

FILED WITH LRC: March 11, 1997 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on April 21, 1997 at 9 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 1997, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7000.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: Advanced registered nurse practitioners approximately 1300.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in

savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation was amended to update the standards of practice for licensed and certified appraisers. No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effects are anticipated on public health and environmental welfare.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensed and certified appraisers are treated uniformly under the law.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 12 USC 3331, 3336, and 3339 and 12 CFR 225.64 and 225.65.

2. State compliance standards. This administrative regulation requires compliance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires compliance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

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 imposition of the stricter standard, or additional or different responsibilities or requirements. No stricter standard, or

additional or different responsibilities or requirements imposed.

GENERAL GOVERNMENT CABINET Kentucky Real Estate Appraisers Board (Amendment)

201 KAR 30:070. Complaints of violations. [~~Prehearing procedure.~~]

RELATES TO: KRS 324A.020, 324A.050

STATUTORY AUTHORITY: KRS 324A.020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.020 authorizes the board to investigate allegations of wrongdoing. KRS 324A.050 authorizes the board to take disciplinary action against the certificate or license of an appraiser for violations of KRS Chapter 324A. The function of this administrative regulation is to establish the procedures for filing complaints of violations with the board. [This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1980 (12 USC 3331 through 12 USC 3361), KRS Chapter 324A to set policies and procedures and to protect the public.]

Section 1. Complaints and Answers. (1)(a) A complaint against a licensee or a certificant shall be submitted on a board form, "Sworn Statement of Complaint". [~~Board of Appraisers Complaint Form.~~]

(b) A complaint shall contain a concise statement of the facts, transaction or occurrence upon which it is based.

(c) A complaint shall be notarized.

(d) Exhibits or other documents shall be attached to the complaint.

(e) A copy of the complaint and attachments shall be served on the licensee or certificant by the board:

1. At the last known address of the licensee or certificant;
2. By certified mail, return receipt requested.

(2)(a) The licensee or certificant shall file with the board an answer to the complaint on a board form, "Sworn Answer to Complaint". [~~Board of Appraisers Answer Form.~~]

(b) The answer shall be notarized.

(c) The answer shall be filed with the board within twenty (20) days after service of the complaint.

(d) A copy of the answer shall be served on complainant by the licensee or certificant by certified mail, return receipt requested to the address shown on the complaint.

Section 2. [~~Motions, requests, filings, and opposing material filed with the board shall:~~

~~(1) Be served on the opposing party by certified mail, return receipt requested; and~~

~~(2) Contain a signed statement that service on the opposing party has been made.~~

Section 3. ~~Withdrawal of Complaint. A complaint may be withdrawn by a complainant if:~~

~~(1) A request to withdraw the complaint is received;~~

~~(a) Within twenty (20) days after the filing of the complaint; or~~

~~(b) Before an answer has been filed by the applicant or appraiser; and~~

~~(2) The board approves.~~

Section 4. ~~Counsel. If a party has retained counsel:~~

~~(1) The attorney shall file an entry of appearance with the board;~~

~~(2) Notices, correspondence, and orders relating to the hearing shall be transmitted to the attorney; and~~

~~(3) Motions, requests, or filings on behalf of a party or appraiser shall be made by the attorney.~~

ADMINISTRATIVE REGISTER - 3611

Appraisers Answer Form (Jan 93)*;

(e) "Board of Appraisers Subpoena Form (Jan 93)*];

(2) These forms may be inspected, copied, or obtained at the Kentucky Real Estate Appraisers Board, 3572 Iron Works Pike, Lexington, Kentucky, 40511-8410, telephone: (606) 246-2017, Monday through Friday, 8 a.m. to 4:30 p.m.

JED DETERS, Chairman

APPROVED BY AGENCY: February 28, 1997

FILED WITH LRC: March 12, 1997 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 25th day of April, 1997, at 10 a.m. in Room 308, 3572 Iron Works Pike, Lexington, Kentucky 40511-8410. Individuals interested in attending this hearing shall notify this agency in writing by the 18th day of April, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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 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: John Grant, Assistant Attorney General, Capitol Building, 700 Capitol Avenue, Frankfort, Kentucky 40501-3449, Telephone: (606) 564-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: John Grant

(1) Type and number of entities affected: Approximately 1200 licensed or certified appraisers in Kentucky.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be

implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation was amended to comply with KRS Chapter 13B. No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effects are anticipated on public health and environmental welfare.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensed and certified appraisers are treated uniformly under the law.

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize [authorizes] the Justice Cabinet and Department of Corrections [commissioner] to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards by the American Correctional Association. This administrative regulation establishes the policies and procedures for the Blackburn Correctional Complex.

Section 1. Incorporation by Reference. (1)(a) "Blackburn Correctional Complex Policies and Procedures", March 12, 1997 [~~13, 1996~~], is incorporated by reference.

(b) It may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, State Office Building, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Blackburn Correctional Complex Policies and Procedures:

BCC 01-07-01	Extraordinary Occurrence Reports
BCC 01-09-01	Legal Assistance for Staff
BCC 01-11-01	Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies
BCC 01-13-01	Relationships with Public, Media, and Other Agencies
BCC 01-13-02	Public Information and News Media Access
BCC 01-15-01	Internal Affairs Office

ADMINISTRATIVE REGISTER - 3613

BCC 22-03-01 Recreational Employees
 BCC 22-04-01 Recreation and Inmate Activities
 BCC 22-04-02 Inmate Clubs and Organizations [~~Amended 3/13/96~~]
 BCC 22-04-03 Conducting Inmate Organizational Meetings and Programs
 BCC 22-04-04 Recreation Program Availability
 BCC 22-04-05 Supervision of Leisure-time Craft Club Activities and Materials
 BCC 22-06-01 Music Club
 BCC 22-08-01 Unit Recreation Program
 BCC 22-09-01 Use of Inmates in Recreation Programs
 BCC 23-01-01 Religious Services
 BCC 24-01-01 Duties and Responsibilities of Classification and Treatment Officers
 BCC 24-02-01 Duties and Responsibilities of the Unit Director and Assistant to the Unit Director
 BCC 24-03-01 Social Services (Amended 3/12/97)
 BCC 25-01-01 Inmate Check Out Procedure
 BCC 25-02-02 Temporary Release and Community Center Release
 BCC 25-05-01 Supplemental Parole Progress Reports
 BCC 26-01-01 Citizen Involvement and Volunteer Service Program

DOUG SAPP, Commissioner

APPROVED BY AGENCY: March 14, 1997

FILED WITH LRC: March 14, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1997, at 9 a.m., in the State Office Building Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard 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 wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 92 employees of the correctional institution, 403 inmates, and all visitors to state correctional institutions.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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: Policy revisions.

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1996-1998 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed administrative regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Vehicle Licensing (Amendment)

601 KAR 9:140. Temporary registration plates.

RELATES TO: KRS ~~186A.100~~ [~~Chapters 186, 186A~~]

STATUTORY AUTHORITY: KRS 186A.100

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 186A allows a county clerk to issue a thirty (30) day temporary registration plate to a vehicle registered and titled in another state for which a properly completed application for title and registration has been submitted. It also provides for currently licensed motor vehicle dealers to issue thirty (30) day temporary plates to be placed on motor vehicles which have been [~~not~~] previously registered in Kentucky. Finally, a county clerk may issue a one (1) to seven (7) day temporary tag for a motor vehicle which is currently registered and titled in Kentucky when necessary to maintain the registration and if emergency or unusual conditions exist. The thirty (30) day temporary registration plate may only be issued by the county clerk while the documents necessary to title or register the vehicle in Kentucky are being assembled. This administrative regulation prescribes the properly completed application, the records to be maintained by the county clerk and his inability to renew the temporary registration plate. It further specifies how the temporary registration plate is to be completed by either the county clerk or motor vehicle dealer.

Section 1. Application. (1) The properly completed application referred to in KRS 186A.100(4) shall be on the form mandated in KRS 186A.060.

(2)(a)1. A representative of a currently licensed motor vehicle

tucky.

1. First year: If the Empower Kentucky work group which suggested this approach is correct, several hundred thousand dollars will be collected in registration fees currently being evaded.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(4) Assessment of anticipated effect on state and local revenues:

As noted above, several hundred thousand dollars in additional registration fees will be collected for the Road Fund.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Road Fund - specifically, the budget of the Department of Vehicle Regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None anticipated.

(b) Kentucky: None anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet considered the alternative of not requiring a person picking up the temporary license plates to produce identification. This was rejected when the potential value of a "boot-legged" temporary license plate was realized.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None anticipated.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) 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:

(10) Any additional information or comments: The suggestion for a holographic design on the temporary license plate to reduce registration avoidance was made by the Motor Vehicle Titling Empower Kentucky Group.

(11) TIERING: Is tiering applied? No. It was not used because everyone using a temporary license plate should be using the same one.

**TRANSPORTATION CABINET
Department of Highways
Division of Aeronautics
(Amendment)**

602 KAR 15:010. Airport development loans.

RELATES TO: KRS 183.200 to 183.213

STATUTORY AUTHORITY: KRS 183.213

NECESSITY, FUNCTION, AND CONFORMITY: KRS 183.213 provides that the Transportation Cabinet shall promulgate administrative regulations governing airport loans made under KRS 183.200 to 183.213. This administrative regulation is promulgated to set forth specifications regarding applications for and terms of the ~~[such]~~ loans.

Section 1. Definition. "Airport development loan" means a loan authorized by KRS 183.200 to 183.213 ~~[and administrative regulations promulgated thereunder].~~

Section 2. An airport board that seeks an airport development

loan shall file an original and one (1) copy ~~[two (2) copies]~~ of Transportation Cabinet form TC 56-15L, "Airport Development Loan Application" ~~[an application]~~ with the Transportation Cabinet, ~~[Executive]~~ Director, Division ~~[Office]~~ of Aeronautics, Frankfort, Kentucky 40622.

Section 3. Content of Application. The following information and exhibits shall be included in the application:

(1) Name and address of the airport board.

(2) The amount of airport development loan requested from the cabinet.

(3) The description of the proposed airport project including an attached exhibit showing an engineer's plat of the site boundaries with the planned location or improvement of airstrips, facilities, servicing utilities, access roads, and total acreage indicated on the plat ~~[thereon]~~.

(4) An exhibit showing the ownership and encumbrances on the land described in subsection (3) of this section.

(5) An exhibit stating the itemized detailed cost or estimated cost of the land and all proposed improvements, the engineering and legal expenses, and any other expenses necessary to determine the cost of the airport project.

(6) (a) An exhibit that states the method and amount of financing for the proposed project including federal, state, and local participants with the percentage of the total project cost contributed by each.

(b) This exhibit shall show the following:

1. Evidence of the availability of funds from each source;

2. The proposed terms of an airport development loan and schedule of repayment; and

3. The percentage of the total project cost to be covered by an airport development loan; ~~[and evidence that funds are not available in the amount necessary to establish the project without an airport development loan].~~

(7) An exhibit with documentation of the financial standing of the airport board in the form of a current financial statement containing a full disclosure of all assets, liabilities, and income.

(8) A statement of [as to] when the proceeds of the loan will be needed and a proposed schedule for site acquisition or development.

(9) An exhibit containing a letter ~~[letter(s)]~~ from each ~~[the]~~ appointing authority ~~[or authorities]~~ attesting that the ~~[said]~~ authority ~~[or authorities]~~ accepts full responsibility for repayment of the loan principal, interest, and any late payment penalties if ~~[in the event of default on the loan by]~~ the airport board defaults on the loan.

Section 4. The annual rate of interest to be charged throughout the life of an airport development loan shall be two (2) ~~[six (6)]~~ percent per annum on all loans made after the effective date of this administrative regulation ~~[April 1, 1985]~~.

Section 5. Determination Standards. Standards for determining the soundness and feasibility of projects shall be as follows:

(1) Can ~~[Whether]~~ funds for the project ~~[can]~~ be obtained from federal, local, or other sources; ~~[or]~~

(2) Are ~~[Whether]~~ the proceeds for the loan ~~[are]~~ to be expended for initial construction of an airport facility or the improvement of the safety or adequacy of an existing airport facility; ~~[or]~~

(3) Will ~~[Whether]~~ the airport development project ~~[will]~~ generate adequate revenue to repay the loan; and ~~[or]~~

(4) If ~~[Whether]~~ the airport master plan or airport layout plan demonstrates that the proposed ~~[such]~~ facilities are needed to enable the airport to give better service to the aircraft operators anticipated to use the airport facility.

Section 6. Terms of Loan. The airport development loan agreement entered into between the airport board and the cabinet shall have the following terms in addition to those stated in KRS 183.210:

(1) That the principal amount loaned shall be repaid to the cabinet

ports.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The administrative regulation sets the requirements and interest rates for the airport development loan fund. Participation in the program is voluntary. However, the airport board's appointing authority (usually a combination of fiscal courts and city commissions) must guarantee the repayment of the loan.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Education Professional Standards Board
Department of Education
Bureau of Learning Support Services
(Amendment)

704 KAR 20:585. Procedures for certificate revocation, suspension, voluntary surrender, reinstatement and reissuance, and application denial.

RELATES TO: KRS 161.028, 161.140, 161.120

STATUTORY AUTHORITY: KRS 161.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.040 provides that no person shall receive or hold a teaching certificate who is not of good moral character. KRS 161.028 and 161.120 provide [provides] that the Education Professional Standards Board may suspend or revoke teaching certificates. This administrative regulation identifies the conditions for initiating actions to revoke or suspend certificates and establishes procedures for certificate revocation, suspension, voluntary surrender, reinstatement and reissuance, and application denial. [revocation proceedings and the procedures to be followed during the revocation proceedings, including the rules governing the conduct of the adjudicatory hearing.]

Section 1. Initiating Action to Revoke or Suspend a Certificate. (1)

An action to revoke or suspend any Kentucky certificate may be initiated by the Education Professional Standards Board ("the board") upon receipt of one (1) or more of the following:

(a) Report of criminal prosecution for persons who are not employed in a public or private school position but who hold a Kentucky teaching certificate;

(b) Report of certificate revocation or suspension from another state;

(c) Report received from a local district superintendent resulting from an unsatisfactory criminal records check as required by KRS 160.380;

(d) Report from the chief state school officer or a local board of education of the conduct of the superintendent which might reasonably be construed as grounds for revocation as set forth in KRS 161.120(1); or

(3) Report or information received from other sources which might reasonably be construed as grounds for revocation as set forth in KRS 161.120(1).

(2) Failure to report by the district superintendent as required by KRS 161.120(2)(b) may constitute grounds for revocation of the superintendent's certificate.

Section 2. [Revocation proceedings shall be automatically initiated on receipt of a report on a certificate holder under the following conditions:

(1) Conviction of a felony;

(2) Conviction on any charge involving sexual misconduct;

(3) Conviction on any charge involving child abuse;

(4) Conviction on any misdemeanor where a student is involved;

(5) Providing false information on a certificate application which affects the eligibility of the applicant for a Kentucky certificate and/or forged transcripts of credits;

(6) Termination, suspension, resignation or retirement for cause on grounds of willful neglect of duty, misconduct in office, or immorality;

(7) Revocation, suspension or denial of a certificate by another state for reasons and through procedures that are the same as, or substantially equivalent to, those permitting similar action in Kentucky;

(8) Admission of criminal conduct, such as that exemplified in plea bargaining. For purposes of this subsection, criminal conduct shall not mean actions in the nature of minor traffic violations, alcohol related misdemeanor convictions where no student or school-related activity is involved or other conduct of similar nature.

Section 3.] Investigation. (1) Upon receiving a report as identified in Section 1 of this administrative regulation or KRS 161.120(2)(b), the board shall review a summary of the report prepared by [through] the office of its executive secretary.

(2) The board may [shall secure available documentation and information and] cause an investigation relating to the cause for certificate revocation to be conducted.

(3) [(2)] The board may make the determination that the report does not warrant a hearing for certificate revocation.

(4) [(3)] If the board determines that a hearing is not warranted, written notice of the decision shall be forwarded to the certificate holder. A copy of the notice shall be forwarded to the party initiating the complaint.

[(4)(a) Statement of charges and notice of hearing. To initiate hearing proceedings to revoke a certificate, the board shall provide the certificate holder with a written statement specifying in detail the charge(s) against the certificate holder and setting a time and date for the hearing pursuant to KRS 161.120(3)(a). This notice shall be forwarded to the certificate holder and the complainant by certified mail.

(b) The written statement of charges against the certificate holder shall set forth in ordinary and concise language the act(s) or omission(s) with which the certificate holder is charged to the end that the certificate holder will be able to prepare a defense.

1. The statement shall also notify the certificate holder of the date, time and location of the hearing.

2. The statement of charge(s) shall include or be accompanied by:

a. A copy of KRS 161.120;

b. 704 KAR 20:585;

c. A statement that a failure to appear at the hearing, in person or by counsel, shall constitute a waiver of the right to a hearing and that the hearing officer or board may proceed upon the charge(s) without a hearing and in the absence of the certificate holder; and

d. A statement that the certificate may be revoked or suspended without a hearing upon written agreement by the certificate holder to voluntarily surrender his certificate(s).

(5) Service. The written statement of charges shall be served personally or by certified mail. Service by certified mail shall be effective if a statute or administrative regulation requires the certificate holder with a revocation complaint pending before the board to file his current address with the board and to notify the board of any change in address, and if a certified letter containing the statement of charge(s) is mailed, addressed to the certificate holder at the latest address on file with the board.

(6) Amendment of charges. At any time before the matter is submitted for final decision, the statement of charge(s) may be amended or supplemented. All parties shall be notified of the filing of an amended or supplemental charge(s). If the amended or supplemental statement of charge(s) presents new charges, the certificate

(d) For the purpose of this section, "statement" includes written statements by the person signed or otherwise authenticating the writing, stenographic, electrical recordings, or transcripts thereof, of oral statements by the person.

Section 7. Conduct of Hearing. (1) Unless otherwise authorized by the Education Professional Standards Board, the board shall use the hearing officer to hear all cases, to make findings of fact, conclusions of law, and recommended orders to the board for a decision. The hearing officer shall be empowered to make all decisions and rule on all matters concerning the conduct of the hearing, including prehearing motions. He shall require an orderly and proper decorum at the hearing, shall be authorized to restrict the number of witnesses and to set a reasonable time limit on the length of the hearing, and shall be authorized to require compliance with his rulings.

(2)(a) If the board hears a case, a legal adviser provided by the Office of the Attorney General shall preside at the hearing and advise the board on matters of law. The board itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the legal adviser, including the admission and exclusion of evidence.

(b) The legal adviser shall remain with the board during its deliberations, but shall not engage in deliberations, or in the discussions of the facts or the factual findings. The legal adviser may respond to questions regarding legal issues and assist the board in the drafting and final wording of the findings of fact, conclusions of law and order.

(3) A hearing officer or a member of the board shall voluntarily disqualify himself and withdraw from any case in which he cannot afford the certificate holder a fair and impartial hearing. The parties may conduct a voir dire of the board members or hearing officer. Any party may request the disqualification of a hearing officer or a board member and shall state with particularity the grounds upon which it is claimed that there is bias or prejudice and that a fair and impartial hearing cannot be afforded. When the request concerns a board member, the question shall be determined by the other members of the board. When the request concerns a hearing officer, the question shall be determined by the executive secretary of the board.

(4) Evidence.

(a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights to:

1. A trial-type hearing;
2. Conduct a voir dire;
3. Call and examine witnesses;
4. Introduce exhibits;
5. Cross-examine opposing witnesses on any matter relevant to the issues;
6. Impeach any witness regardless of which party first called the witness to testify; and
7. Rebut evidence.

(c) If the certificate holder does not testify in his behalf, he may be called and examined as if under cross-examination. Upon motion by either party and authorization by the board or the hearing officer, either party may submit rebuttal evidence by deposition either party after the hearing is adjourned for good cause shown. The introduction of testimony taken in this manner shall be limited to rebuttal testimony only and shall be submitted within a defined time frame as ordered by the board or the hearing officer.

(d) The hearing shall not be conducted according to technical rules relating to evidence and witnesses. The formal rules of evidence and civil procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which reasonably prudent persons rely in the conduct of their serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or

explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Irrelevant, immaterial and unduly repetitious evidence shall be excluded.

(e) Upon a showing of unavailability or other good cause, the testimony of any witness previously examined under oath or affirmation in a criminal, civil or administrative adjudicatory action and recorded by audio, video or written transcription, subject to cross-examination by the certificate holder, may be presented by either party in lieu of oral testimony. A request to substitute the oral testimony of any witness shall be submitted in writing to the hearing officer, or if the board is to hear the case, to the executive secretary of the board, at least ten (10) days prior to the hearing. The opposing party may file written objections setting forth in detail the reason for the objection at least five (5) days prior to the hearing.

(f) The proceedings and evidence presented shall be recorded by a court reporter.

(5) Administrative notice. In reaching a decision, the board or hearing officer may take official notice of cognizable facts which may be judicially noticed by the courts of Kentucky and of any generally accepted technical and scientific matter. Board members or the hearing officer may utilize their experience, technical competence and specialized knowledge in the evaluation of the evidence presented. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to in the record, or appended to the record. Any party shall be given a reasonable opportunity on request to refute the officially noticed matters of evidence by evidence or by written or oral presentation or authority. The board or its hearing officer shall determine the manner by which a party may refute the officially noticed matter.

Section 8. Findings and Recommendations; Exceptions. (1) Following completion of the hearing, the hearing officer shall prepare within thirty (30) days after the case is submitted a recommended order, including findings of fact and recommendations, based on the evidence, facts, and information presented at the hearing and contained in the record. The recommended order shall be in such form that it may be adopted as the decision in the case.

(2) The recommended order shall be issued at the direction of the hearing officer through the office of the board's executive secretary. A copy shall be mailed by means of certified mail, return receipt requested, by the executive secretary to each party or upon his attorney if represented by counsel.

(3) Any party may submit written exceptions to the hearing officer's findings of fact and recommended order. Exceptions shall be filed with the board through the office of the executive secretary within ten (10) days following receipt of the recommended order. The hearing officer for good cause shown may order the period enlarged if request is made before expiration of the period originally prescribed. The length of the written exceptions shall be limited to ten (10) pages unless otherwise extended by permission of the hearing officer upon motion for extension by either party.

(4) Exceptions not timely filed shall be noted and made a part of the record, but shall not be considered by the board in making its final decision. For the purpose of this section, written exceptions shall be considered to have been timely filed if postmarked on the date due.

Section 9. Board Review and Final Action. (1)(a) The board may adopt or reject the recommended order of the hearing officer in its entirety, or may increase or reduce the proposed period of revocation or suspension and adopt the balance of the recommended order.

(b) If the recommended order is rejected by the board as provided in paragraph (a) of this subsection, the board may decide the case upon the record, with or without taking additional evidence or may remand the case to the hearing officer for further action as deemed appropriate and ordered by the board. If additional evidence is introduced before the board, board members shall not vote on the final

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Contact Person: Dr. Betty Lindsey, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606 telephone, (502) 573-1610 fax.

REGULATORY IMPACT ANALYSIS

Agency Contact: Betty Lindsey

(1) Type and number of entities affected: All certified personnel in the 176 school districts of the Commonwealth.

(2) Direct and indirect costs or savings to those affected: None

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No additional revenue is required. Administrative regulation shall be enforced by Department of Education, Division of Professional Development staff.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: 176 local school districts.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered as directed to promulgate by KRS 156.101.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would occur, explain detrimental effect: This regulation does not relate to the environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplicative: There does not appear to be any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplicating.

(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

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction Office of the State Fire Marshal (Amendment)

815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection and safety factors.

RELATES TO: KRS Chapter 236, 815 KAR 15:010-080

STATUTORY AUTHORITY: KRS 236.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 authorizes the commissioner, through the Board of Boiler and Pressure Vessel Rules, to establish ~~fix~~ reasonable standards for the inspection and repair of boilers and pressure vessels. This administrative regulation contains the requirements for safe maintenance of those vessels. This amendment updates the standards from the 1989 edition to the 1995 edition of the National Board Inspection Code.

Section 1. Frequency of Inspection of Existing Vessels. ~~Inspection frequency.~~ Upon notification by an inspector, a boiler or pressure vessel ~~all boilers and pressure vessels~~ which is is ~~are~~ subject to an annual or semiannual inspection ~~inspections~~ pursuant to KRS 236.110 shall be prepared for the inspection or hydrostatic test by the owner or user.

Section 2. Preparation for Inspections and Tests. (1) The owner or user shall prepare the ~~each~~ boiler or pressure vessel for internal inspection and ~~shall prepare for and~~ apply the required hydrostatic test ~~tests~~ on the date specified by the inspector. The date set for inspection shall be a minimum of ~~not less than~~ seven (7) days following ~~after the date of~~ notification by the inspector.

(2) The owner or user shall prepare a boiler for internal inspection in the following manner:

(a) Water shall be drawn off and the boiler thoroughly washed;

(b) The ~~All~~ manhole and handhole plates, washout plugs, and the plugs in water column connections shall be removed and the furnace and combustion chambers thoroughly cooled and cleaned;

(c) The grate ~~All grates~~ of an internally fired boiler ~~boilers~~ shall be removed;

(d) During the ~~At each~~ annual inspection, brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, ~~boilers, headers,~~ furnace, supports or other parts;

(e) The steam gauge shall be removed for testing; and

(f) Any Leakage of steam or hot water into the boiler shall be cut off by disconnecting the pipe or valve at the most convenient point.

(3) If the boiler is jacketed and the longitudinal seams of shells, drums or domes are not visible, enough of the jacketing, setting wall or other forms, casing or housing shall be removed so that the size of the rivets, pitch of the rivets and other data necessary to determine the safety of the boiler may be obtained ~~if the information cannot be determined by other means~~.

(4) If a boiler has not been properly prepared for an internal inspection or the owner or user fails to comply with the requirements for the hydrostatic test as set forth in this administrative regulation, the inspector may decline to make the inspection or test and the inspection certificate shall be withheld until the owner or user complies with the requirements.

(5) Lap seam crack. A crack in the lap seam extending parallel to the longitudinal joint between or adjacent to rivet holes of the shell or drum of a boiler or pressure vessel shall cause the vessel to be immediately discontinued from use. If the boiler or pressure vessel is not more than fifteen (15) years of age, a complete new course of the original thickness may be installed at the discretion of the inspector and after approval by the chief inspector. Patching shall be prohibited.

(6) Hydrostatic pressure tests. If hydrostatic tests shall be applied to existing installations, the pressure shall be as follows:

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1		2		()	
()		()		KY	
2 OWNER:			ADDRESS:		
ADDRESS:			CITY:		ST: ZIP:
3 USER: ()			ADDRESS:		
ADDRESS:			CITY:		ST: ZIP:
4 USER PHONE:		NATURE OF BUSINESS:		COUNTY: SPECIFIC LOCATION IN PLANT:	
5 TYPE:		YR BLT:		MANUFACTURER:	
CIS FT OTH HFB HSM WT					
()		()		()	
6 USER:		FUEL:		INSP TYPE: CERT INSP:	
POWER PROCESS STEAM HTG HWH HWS UNFIRED		INT EXT		YES NO	
()		()		()	
7 PRESSURE ALLOWED:		SAF RELIEF VALVE:		SAF VALVE CAP: MIM SAF VALVE CAP:	
THIS INSP PREV INSP		SET AT:			
8 HYDRO TEST PSI		TEST DATE:			

VIOLATIONS TO BE CORRECTED ARE BELOW

CODE	
1	
2	
3	
4	
5	
6	
7	

FEE:		INSP. _____		COMP. DATE: _____		KY COMM. _____	
CONTACT PERSON _____		CERT. _____					
TOTAL _____		CO. NO. _____		INSPECTOR SIGNATURE _____			
CHECK BOX IF ADDITIONAL REMARKS ARE ON BACK <input type="checkbox"/>							
EMPLOYED BY _____							

*****]

(2) Insurance companies shall notify the Boiler Inspection Section of new, cancelled or suspended risks. The [All] insurance company [companies] shall notify the Boiler Inspection Section within thirty (30) days of all boiler or pressure vessel risks written, cancelled, not renewed or suspended because of unsafe conditions.

(3) Insurance companies shall notify the Boiler Inspection Section of defective boilers or pressure vessels. If a special boiler inspector finds, upon the first inspection of a boiler or pressure vessel, the boiler or pressure vessel or any of the appurtenances in a condition causing his company to refuse insurance, the company shall immediately notify the Boiler Inspection Section and submit a report of the defects.

(4) Defective conditions disclosed at time of external inspections. If, ~~upon~~ an external inspection reveals ~~[there is]~~ evidence of a leak

or crack, enough of the covering of the boiler or pressure vessel shall be removed to satisfy the inspector of its safety. If the covering cannot be removed at that time, the special inspector shall order the operation stopped until the covering may be removed and a proper examination made.

Section 7. Incorporation by Reference. (1) The "National Board Inspection Code", 1995 Edition, is incorporated by reference.

(a) The National Board Inspection Code is published by and available from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

(b) A copy is also available to be inspected and copies at the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky, Monday through Friday from 8 a.m. to

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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 administrative regulations relating to the particular health facility:

(a) Compliance with licensure administrative regulations shall be ascertained through on-site inspections of the health facility. Licensure inspections may be unannounced.

(b) Representatives of the inspecting agency shall have access to the health facility ~~[health service]~~ during the hours that the facility operates.

(c) Any regulatory violation identified during such inspections will be transmitted in writing to the health facility by the inspecting agency.

(d) 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.

1. Such plan shall specify the date(s) by which each of the violations will be corrected.

2. Following a review of the plan, the inspecting agency shall notify the health facility in writing of the acceptability of the plan.

3. In instances where a portion or all of the plan is unacceptable, the inspecting agency shall specify the reasons for the unacceptability.

4. 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 and data submissions ~~[approved by the Commission on Health Economics Control in Kentucky]~~ and any special reports required by the cabinet [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 required [approved] by the cabinet [commission] shall be submitted within thirty (30) days of the date the request is mailed. Licensees shall be notified of reporting requirements no later than October 1 of the year preceding the report year. ~~[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 remain in effect for one (1) year from [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 administrative 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.

(10) A new application shall be filed in the event of change of ownership.

(a) 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.

(b) ~~[(40)]~~ 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 cabinet [commission] of the name and address ~~[(and any changes)]~~ of:

(a) Each person having a direct or indirect ~~[(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 per sq. ft. \$2300 maximum
(b) All other health facilities plans and specifications review (initial through final)	\$.04 per sq. ft. \$1200 maximum

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

License Type	Rate
(a) [Air ambulance services]	\$80
[(b)] Alternative birth centers	\$155
<u>(b) Alzheimer's nursing homes</u>	<u>\$8 per bed</u> <u>\$155/minimum</u> <u>\$1,545/maximum</u>
(c) Ambulatory surgical center	\$155
(d) Chemical dependency treatment service	\$8 per bed \$155/minimum \$1,545/maximum
(e) Community mental health and mental retardation center	\$750
(f) Day health care	\$80
(g) [Ambulance service (Per nonvolunteer service)]	\$80
[(Per volunteer service)]	\$20
[(h)] Family care homes	\$40
<u>(h) [(h)]</u> Group homes mentally retarded/developmentally disabled	\$80
<u>(i) [(i)]</u> Health maintenance organizations	\$5 per 100 patients
<u>(j) [(j)]</u> Home health agencies	\$80
<u>(k) [(k)]</u> Homemaker	\$80
<u>(l) [(l)]</u> Hospice	\$20
<u>(m) [(m)]</u> Hospitals	\$5 per bed \$155/minimum \$1,545/maximum
1. Accredited hospital	\$8 per bed \$155/minimum \$1,545/maximum
2. Nonaccredited hospital	\$8 per bed \$155/minimum \$1,545/maximum
<u>(n) [(n)]</u> Intermediate care facilities	\$8 per bed \$155/minimum \$1,545/maximum
<u>(o) ICF/MR facilities</u>	<u>\$8 per bed</u> <u>\$155/minimum</u> <u>\$1,545/maximum</u>
(p) Medical detoxification services	No fee
<u>(q) Networks</u>	<u>\$155</u>
[Nonemergency health transportation service (per service)]	\$80
<u>(r) Nursing facilities</u>	<u>\$8 per bed</u> <u>\$155/minimum</u>

CABINET FOR FAMILIES AND CHILDREN
Department for Social Insurance
Division of Management and Development)
(Amendment)

904 KAR 3:025. Technical requirements.

RELATES TO: 7 CFR 273.4, 273.5, 273.7, 7 USC 2015(e), (o), PL 104-193 sec. 402, PL 104-208 sec. 510

STATUTORY AUTHORITY: KRS 194.050, 7 CFR 271.4, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children. The Cabinet for Families and Children [Human Resources] has responsibility to administer a Food Stamp Program. KRS 194.050 provides that the secretary shall, by administrative regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This administrative regulation sets forth the technical eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Definitions. (1) "Certification period" means a definite period of time within which a household shall be eligible to receive food stamp benefits.

(2) "Qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive food stamp benefits, is:

(a) An alien who is lawfully admitted for permanent residence pursuant to 8 USC 1101 et seq.;

(b) An alien who is granted asylum pursuant to 8 USC 1158;

(c) A refugee who is admitted to the United States pursuant to 8 USC 1157;

(d) An alien who is paroled into the United States pursuant to 8 USC 1182(d)(5) for a period of at least one (1) year;

(e) An alien whose deportation is being withheld pursuant to 8 USC 1253(h); or

(f) An alien who is granted conditional entry pursuant to 8 USC 1153(a)(7) as in effect prior to April 1, 1980.

(3) "Quality control review" means a review of a statistically valid sample of active and denied or discontinued cases to determine the extent to which households are receiving the food stamp allotments to which they are entitled, and to ensure that inactive cases are not incorrectly denied or terminated.

(4) ~~[(3)]~~ "Student status" means any person who is between the ages of eighteen (18) and fifty (50) inclusive, physically and mentally fit, and enrolled at least half-time in an institution of higher education.

Section 2. Technical Eligibility. In accordance with federal regulations promulgated by the Food and Consumer Service (FCS), of the United States Department of Agriculture, the cabinet utilizes national uniform requirements of technical eligibility for the Food Stamp Program.

Section 3. Technical Eligibility Criteria. Technical eligibility requirements shall apply equally to all households and consist of:

(1) Residency. A household shall live in the county in which they make application;

(2) Identity.

(a) The applicant's identity shall be verified; and

(b) If an authorized representative applies for the household, both the applicant's and the authorized representative's identities shall be verified;

(3) Citizenship and alien status.

(a) Except as provided in paragraph (c) of this subsection, Food Stamp Program benefits ~~[participation]~~ shall be provided only ~~[limited]~~ to a citizen ~~[-~~

~~4. Citizens]~~ of the United States. ~~[-or]~~

(b) A qualified alien, as defined in Section 1(2) of this administrative regulation, shall not be eligible to participate in the Food Stamp Program.

~~[2. Eligible aliens as defined by 904 KAR 3:010.]~~

(c) The following exceptions shall apply to paragraph (b) of this subsection:

1. A qualified alien described in this subparagraph shall be eligible to participate in the Food Stamp Program until five (5) years after the date:

a. A qualified alien enters the United States as a refugee pursuant to 8 USC 1157;

b. A qualified alien is granted asylum pursuant to 8 USC 1158;

c. A qualified alien's deportation is withheld pursuant to 8 USC 1253(h).

2. A qualified alien who is lawfully admitted to the United States for permanent residence pursuant to 8 USC 1101 et seq.; and

a. Has worked forty (40) qualifying quarters of coverage pursuant to 42 USC 413; or

b. Can be credited with forty (40) qualifying quarters pursuant to PL 104-193, §435; and

c. For the purpose of qualifying for food stamp benefits pursuant to clauses a and b of this subparagraph, no qualifying quarter shall be creditable for any period beginning after December 31, 1996, during which the qualified alien or his spouse receives any federal means-tested public benefit; and

3. A qualified alien who is lawfully residing in Kentucky and is:

a. A veteran, as defined pursuant to 38 USC 101, with an honorable discharge and not on account of alienage;

b. On active duty, other than active duty for training, in the Armed Forces of the United States; or

c. The spouse or unmarried dependent child of an individual described in clauses a and b of this subparagraph.

(d) Pursuant to PL 104-208, §510, an alien who was participating in the Food Stamp Program on August 22, 1996, shall not be determined ineligible based solely on the alien eligibility criteria of PL 104-193, §402(a)(1), as described in paragraphs (b) and (c) of this subsection, until April 1, 1997.

(e) An individual ~~[(b) Individuals]~~ whose status is questionable shall be ineligible to participate until such status has been verified;

(f) ~~[(e)]~~ A single household member shall attest in writing to the citizenship or alien status of each household member by signing the Food Stamp Application Form, which is incorporated by reference at 904 KAR 3:030.

(4) Household size. Size of household shall be verified through readily available documentary evidence or through a collateral contact;

(5) Students. Any person who meets the definition of ~~[a]~~ student status pursuant to ~~[as specified in]~~ Section 1(4) of this administrative regulation shall be ineligible to participate unless they meet at least one (1) of the following criteria:

(a) Shall be engaged in paid employment for a minimum of twenty (20) hours per week or, if self-employed, shall be employed for a minimum of twenty (20) hours per week and receive weekly earnings at least equal to the federal minimum wage multiplied by twenty (20) hours; or

(b) Shall participate in a state or federally financed work study program during the regular school year; or

(c) Shall be responsible for the care of a dependent household member under the age of six (6); or

(d) Shall be responsible for the care of a dependent household member who has reached the age of six (6) but is under age twelve (12) where the cabinet has determined that adequate child care is not available to enable the individual to attend class and to satisfy the work requirements of paragraphs (a) and (b) of this subsection; or

(e) Shall receive benefits from the Kentucky Transitional Assistance Program (K-TAP) ~~[Aid to Families with Dependent Children]~~

available from the public comment received: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None of the changes that are incorporated into this administrative regulation will significantly increase or decrease the number of people who are eligible for food stamp benefits. Thus, the department does not anticipate any additional administrative costs resulting from the promulgation of this administrative regulation. Any costs or savings in food stamp benefits that are realized as a result of changes to technical eligibility criteria will be insignificant. Since food stamp benefits are 100 percent federally funded, any costs or savings will not have an impact on the state agency. Most noncitizens who apply for food stamp benefits will not have any additional compliance, reporting and paperwork requirements as a result of the new alien requirements pursuant to PL 104-193, §402. It is anticipated that less than 500 noncitizens will be subject to additional paperwork requirements to determine if they will be eligible for food stamps. Individuals who are subject to 7 USC 2015(o), as amended by §824 of PL 104-193, will be required to verify employment, participation in an approved work program or exemption in order to participate in the Food Stamp Program for more than 3 months in a 36 month period.

2. Second and subsequent years: See Item #1.

(3) 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

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Kentucky: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the methods which are incorporated into this administrative regulation are specifically mandated by PL 104-193, §402 and §824, and PL 104-208, §510.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The state is required to administer the program required under 7 USC 2011 et seq. for the determination of eligibility for food stamp benefits. Individuals who are technically eligible to participate in the Food Stamp Program benefit by the opportunity for a nutritional diet. This administrative regulation is needed to comply with the federal mandates of PL 104-193, §402 and §824 and §510 of PL 104-208.

(b) State whether a harmful effect on environment and public health would result if not implemented: A detrimental effect on public

health would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: It is necessary to promulgate this administrative regulation that includes these provisions to comply with the deadline set by federal law and to prevent a loss of federal funds (100% of food stamp benefits, 50% of federal match for administrative funds, and 100% of federal enhanced funding).

(9) 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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 104-193, §402, 7 USC 2015(o), as amended by PL 104-193, §824. PL 104-208, §510.

2. State compliance standards. This administrative regulation pertains to technical eligibility requirements which are germane to the Food Stamp Program, as prescribed by 7 USC 2011 et seq., as amended. There are no separate state compliance standards.

3. Minimum or uniform standards contained in the federal mandate. The provisions of this administrative regulation are promulgated in accordance with 7 USC 2011 et seq., as amended, and applied in a like manner on a statewide basis.

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 standards, or additional or different responsibilities or requirements. None

CABINET FOR FAMILIES AND CHILDREN

Department for Social Services

Division of Family Services

(Amendment)

905 KAR 2:140. Child day care programs.

RELATES TO: KRS 199.892 - 896, 45 CFR 98, 256, 257, PL 99-457 Part H, PL 94-142.2

STATUTORY AUTHORITY: KRS 194.050, 199.892, 199.899, 45 CFR 98.41, PL 104-193, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194.050 and 199.899 provide [provides] that the Secretary for the Cabinet for Human Resources shall adopt administrative regulations necessary to operate programs and fulfill the responsibilities vested in the Cabinet for Human Resources and provide uniform administration of child day care funds. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Services under the Cabinet for Families and Children. This administrative regulation is necessary to enable the Cabinet for Families and Children (Human Resources) to qualify to receive federal funds under the Social Services Block Grant, Child Care and Development Block Grant and the Transitional and At-Risk Child Care Programs and for child care services pursuant to 904 KAR 2:017. The function of this administrative regulation is to establish procedures for the implementation of child day care programs.

Section 1. Definitions. (1) "At-risk child care, (ARCC)" means child care assistance provided to non-K-TAP [AFDC] families who need care in order to work and who may otherwise be at risk of becoming

~~through the SSBG may not use unregulated care, however, unregulated care may be used by families receiving TCC or ARCC funds. Relative care as provided through the ARCC program, which is not required to be registered, shall be deemed unregulated.]~~

(31) ~~(30)~~ "Waiting list" means a list that may be maintained by district DSS staff once funds are obligated in a district. The list is based on the availability of district day care funds. TCC families shall not be placed on a waiting list due to the uncapped funding source.

(32) ~~(31)~~ "Without regard to income" means that SSBG child day care services for child protective cases shall be provided or purchased without regard to family income. In situations where the court is involved, parents may be ordered to pay for part or all of the cost of day care for their child. Voluntary payments by parents may be accepted.

Section 2. Technical Eligibility for CCDBG. A child shall be eligible for services as verified on the DSS-1A, Application for Services, herein incorporated by reference, if he:

(1) Is under the age of thirteen (13) or is under the age of eighteen (18) and:

(a) Is physically or mentally incapable of caring for himself as verified by the written determination of:

1. A physician;
2. A licensed or certified psychologist;
3. A qualified mental health professional; or
4. As accepted by a collateral agency (schools, comprehensive care center); or

(b) Is under court supervision;

(2) Resides with a family whose income does not exceed:

(a) Sixty (60) percent of the states median income for a family of the same size at time of application; or

(b) Seventy-five (75) percent of the states median income for a family of the same size at the time of reauthorization; and

(c) To the extent necessary the eligibility levels of state median income specified in paragraphs (a) and (b) of this subsection may be revised based on the availability of state and federal funds.

(3) Resides with parents who are working or attending a job training or educational program;

(4) Fee requirement.

(a) A family receiving CCDBG funds shall be required to contribute toward the payment based on the family's income as described in Section 7(3) of this administrative regulation.

(b) An individual who fails to cooperate in paying required fees may, subject to notices and hearing requirements, lose eligibility for the period of time back fees are owed, unless satisfactory arrangements are made to make full payment.

(5) Other eligibility conditions or priority requirements including childhood development and before and after school care services, may be established in addition to Sections 3(1) through (5) and 5(4) as long as they shall not:

(a) Discriminate against children on the basis of:

1. Race;
2. National origin;
3. Ethnic background;
4. Sex;
5. Religious affiliation; or
6. Disability.

(b) Limit parental rights as governed by Section 4 of this administrative regulation; or

(c) Violate provisions of Section 7 [5](4) of this administrative regulation.

Section 3. Technical eligibility for SSBG. (1) The child shall have met the requirements specified in Section 2(1) of this administrative regulation.

(2) The case records shall:

(a) Substantiate or reflect some indication of child abuse, neglect,

dependency or exploitation; or

(b) Provide documentation that a family has a need for child care services and with the use of child care the need for protective services may be prevented.

(3) Working parents may be eligible if:

- (a) Child care needs exist in order to allow the parent to work;
- (b) The family is income eligible as specified in Section 2(2)(a) and (b) of this administrative regulation; and
- (c) ARCC and CCDBG funds are obligated.

Section 4. Technical Eligibility and Limitations for TCC. A family shall be notified of its potential eligibility for TCC when its K-TAP [AFDC] benefits are terminated.

(1) The following requirements shall be met during any month for which TCC is paid:

(a) The child shall have met the requirements specified in Section 2(1) of this administrative regulation or would be a dependent child except for the receipt of benefits under Supplemental Security Income (SSI) under 42 USC 1382 or foster care under 42 USC 672.

(b) Child care shall be necessary in order to permit a member of a K-TAP [an AFDC] family to accept or retain employment;

(c) Payments shall not be made for care provided by:

1. Parents;
2. Legal guardians;
3. Members of the assistance group; and
4. Providers not meeting applicable standards of state and local law or not enrolled pursuant to Section 7 of this administrative regulation.

(d) The family shall have ceased to be eligible for K-TAP [AFDC] as a result of:

1. Increased hours of, or increased income from, employment; or
2. The loss of income disregards due to the time limitations at Section 4(3)(b) of 904 KAR 2:016;

(e) The family shall have received K-TAP [AFDC]:

1. In at least three (3) of the six (6) months preceding the first month of ineligibility; and
2. At least one (1) of the three (3) months was received in the state of Kentucky.

(f) The family:

1. Requests TCC benefits;
2. Provides the information necessary for determining eligibility and fees; and
3. Meets application requirements.

(2) Time limitations.

(a) Eligibility for TCC:

1. Begins with the first month that the family is ineligible for K-TAP [AFDC]; and

2. Continues for a period of twelve (12) consecutive months.

(b) A family may begin to receive child care in any month during the twelve (12) month eligibility period.

(3) 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:
 - a. Is personally providing care for a child under age six (6); and
 - b. Employment will require the individual to work more than twenty (20) hours per week.

2. Child care:

- a. Is necessary for the individual to participate in the program or accept employment; and
- b. Is not available; or

c. The available child care does not meet the special needs of the child, e.g., a child who has physical or mental disabilities.

3. The individual is unable to engage in employment or training for mental or physical disabilities, including participation in a drug or alcohol rehabilitation program.

4. Transportation is unavailable and there is no readily accessible

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(d) ~~Nonrelative providers providing care in the child's home shall be certified by meeting the requirements as follows:~~

1. The provider shall be at least eighteen (18) years of age;
2. ~~The provider shall be physically capable of providing care to children, as stated by a qualified physician;~~

3. The provider shall be free of tuberculosis, as stated by a qualified physician or health care specialist;

4. ~~The provider shall not have been convicted of crimes against children, as shown by a criminal records check conducted within the past year by the Kentucky State Police; and~~

5. ~~The provider shall sign an agreement not to use any form of corporal physical discipline on the children entrusted into their care.~~

(c) The department may deny or terminate an agreement with an unregulated provider if conditions or circumstances at the child care premises places children at risk of abuse, neglect, or exploitation pursuant to KRS Chapter 620.

(d) If the department denies or terminates an agreement with an unregulated provider, the department shall notify the provider in writing stating the reasons for the adverse action and the provider's right of appeal.

(e) If the provider feels an action of the Department for Social Services is unfair, without reason, or unwarranted, the provider may appeal the action, in writing, to the Commissioner of the Department for Social Services, 6th Floor, 275 East Main Street, Frankfort, Kentucky 40621, within twenty (20) days after receiving the notice of the action from the department.

(f) Upon receipt of the request for hearing, the commissioner, or designee, shall appoint a hearing officer to review the record, conduct the hearing, and make recommendations upon the matter appealed. Within fifteen (15) days of the assignment, the hearing officer shall notify the provider in writing of the date, time and place of the hearing. The notice shall comply with KRS 13B.050(2) and (3).

(g) The hearing shall be conducted as governed by KRS 13B.080 and Chapter 13B.

(h) The hearing officer shall advise the parties that a recommended order shall be distributed within ten (10) days after the close of the hearing, the parties shall have fifteen (15) days from the date of the recommended order to file exceptions, and a final decision shall be rendered within thirty (30) days from the close of the hearing.

(i) The recommended order shall be filed with the commissioner, or designee, and shall comply with KRS 13B.110.

(j) Within twenty (20) days after receipt of the recommended order, the commissioner, or designee, shall render a final order, either affirming or overturning the initial decision of negative action. The final order shall comply with KRS 13B.120.

(k) If denial or termination of enrollment is upheld, the commissioner's or designee's notification shall specify the date by which the child care payments shall cease.

(2) The cabinet has established maximum child day care payments as follows:

These charts represent the local maximum payment rate on a per day/weekly basis. If care exceeds five (5) days, the rate shall be the weekly maximum payment plus the additional designated daily amount reflecting the applicable rate. Chart abbreviations are as follows: FT - full time; PT - part time; WM - weekly maximum.

KENTUCKY CHILD CARE MAXIMUM PAYMENT LEVELS

WESTERN REGION

Purchase ADD #1

County: McCracken

Urban X	Center			Group Home			Family/In Home		
Rural	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	12	12	60	11	16	55
Toddler	\$12	16	60	11	11	55	11	16	55

Preschool	\$12	14	60	11	10	55	11	16	55
School Age	\$12	9	60	11	10	55	11	16	55
Special Needs									
Child	\$12	16	60	13	13	65	10	16	50

Purchase ADD #1

Counties: Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall

Urban	Center			Group Home			Family/In Home		
Rural X	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	13	13	65	11	16	55
Toddler	\$13	16	65	13	13	65	11	16	55
Preschool	\$13	14	65	13	13	65	13	16	65
School Age	\$12	9	60	13	13	65	12	16	60
Special Needs									
Child	\$12	16	60	13	13	65	15	16	75

Pennyrile ADD #2

County: Christian

Urban X	Center			Group Home			Family/In Home		
Rural	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	12	12	60	11	16	55
Toddler	\$12	16	60	11	11	55	11	16	55
Preschool	\$12	14	60	10	10	50	11	16	55
School Age	\$11	8	55	10	10	50	11	16	55
Special Needs									
Child	\$12	16	60	13	13	65	10	16	50

Pennyrile ADD #2

Counties: Caldwell, Crittenden, Hopkins, Livingston, Lyon, Muhlenberg, Todd, Trigg

Urban	Center			Group Home			Family/In Home		
Rural X	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	13	13	65	11	16	55
Toddler	\$13	16	65	11	13	65	11	16	55
Preschool	\$13	14	65	13	13	65	13	16	65
School Age	\$12	8	60	13	13	65	12	16	60
Special Needs									
Child	\$12	16	60	13	13	65	15	16	75

Green River ADD #3

Counties: Daviess, Henderson

Urban X	Center			Group Home			Family/In Home		
Rural	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	12	12	60	11	16	55
Toddler	\$13	16	65	12	11	60	11	16	55
Preschool	\$13	14	65	12	10	60	11	16	55
School Age	\$13	10	65	12	10	60	11	16	55
Special Needs									
Child	\$13	16	65	13	13	65	11	16	55

Green River ADD #3

Counties: Hancock, McLean, Ohio, Union, Webster

Urban	Center			Group Home			Family/In Home		
Rural X	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	13	13	65	11	16	55
Toddler	\$13	16	65	13	13	65	11	16	55
Preschool	\$13	14	65	13	13	65	13	16	65
School Age	\$13	10	65	13	13	65	12	16	60
Special Needs									
Child	\$13	16	65	13	13	65	15	16	75

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Kentucky River ADD #12

Counties: Breathitt, Knott, Lee, Leslie, Letcher, Owsley, Perry, Wolfe

Urban Rural X	Center			Group Home			Family/In Home		
	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	12	65	12	12	60	11	9	55
Toddler	\$13	12	65	12	10	60	11	8	55
Preschool	\$13	12	65	12	10	60	15	10	75
School Age	\$13	14	65	12	10	60	12	10	60
Special Needs									
Child	\$13	16	65	12	12	60	11	11	55

Cumberland Valley ADD #13

Counties: Bell, Clay, Harlan, Jackson, Knox, Laurel, Rockcastle, Whitley

Urban Rural X	Center			Group Home			Family/In Home		
	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	12	65	12	12	60	11	9	55
Toddler	\$13	12	65	12	10	60	11	6	55
Preschool	\$13	12	65	12	10	60	15	10	75
School Age	\$13	14	65	12	10	60	12	10	60
Special Needs									
Child	\$13	16	65	12	10	60	10	9	50

Lake Cumberland ADD #14

Counties: Adair, Casey, Clinton, Cumberland, Green, McCreary, Pulaski, Russell, Taylor, Wayne

Urban Rural X	Center			Group Home			Family/In Home		
	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$16	8	80	15	15	75	15	12	75
Toddler	\$16	14	80	15	15	75	15	12	75
Preschool	\$15	13	75	15	8	75	15	12	75
School Age	\$14	16	70	13	8	65	15	12	75
Special Needs									
Child	\$14	11	70	14	14	70	15	12	75

Bluegrass ADD #15

Counties: Bourbon, Clark, Fayette, Franklin, Jessamine, Madison, Scott, Woodford

Urban X Rural	Center			Group Home			Family/In Home		
	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$14	11	70	13	11	65	13	12	65
Toddler	\$13	14	65	12	11	60	11	12	55
Preschool	\$13	14	65	12	9	60	11	12	55
School Age	\$13	16	65	12	9	60	11	12	55
Special Needs									
Child	\$14	14	70	14	14	70	15	12	75

Bluegrass ADD #15

Counties: Anderson, Boyle, Estill, Garrard, Harrison, Lincoln, Mercer, Nicholas, Powell

Urban Rural X	Center			Group Home			Family/In Home		
	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$16	11	80	15	15	75	15	12	75
Toddler	\$16	14	80	15	15	75	12	12	60
Preschool	\$15	14	75	15	9	75	15	12	75
School Age	\$14	16	70	13	9	65	15	12	75
Special Needs									
Child	\$14	14	70	14	14	70	15	12	75

(3) The cabinet shall assess a fee which the family shall pay to the provider for the cost of child day care based on the following sliding scale:

CHILD CARE FEE SCHEDULE

Income Range (Monthly) FAMILY SIZE - Fee per agreement per family

		2	3	4	5	6	7	8*
0	399	1.00	1.00	1.00	1.00	1.00	1.00	1.00
400	499	1.00	1.00	1.00	1.00	1.00	1.00	1.00
500	599	1.00	1.00	1.00	1.00	1.00	1.00	1.00
600	699	1.00	1.00	1.00	1.00	1.00	1.00	1.00
700	799	1.00	1.00	1.00	1.00	1.00	1.00	1.00
800	899	2.00	1.00	1.00	1.00	1.00	1.00	1.00
900	999	3.25	1.15	1.00	1.00	1.00	1.00	1.00
1000	1099	4.50	2.25	1.00	1.00	1.00	1.00	1.00
1100	1199	6.00	3.50	1.60	1.00	1.00	1.00	1.00
1200	1299	7.50	5.00	3.10	1.00	1.00	1.00	1.00
1300	1399	8.00	6.00	4.60	1.60	1.00	1.00	1.00
1400	1499	8.60	7.00	6.10	2.65	2.00	1.00	1.00
1500	1599	9.25	7.75	7.00	4.05	3.05	1.25	1.00
1600	1699	9.75	8.25	7.85	5.50	4.50	2.30	1.00
1700	1799	10.25	9.75	8.35	7.10	6.25	3.50	1.50
1800	1899	10.75	10.30	9.30	8.35	7.50	5.20	2.50
1900	1999	11.25	10.60	9.30	9.30	8.80	7.00	3.80
2000	2099	11.75	11.25	9.75	9.75	9.75	8.50	5.30
2100	2199	12.25	11.75	10.25	10.25	10.25	10.00	7.10
2200	2299	12.75	12.25	10.70	10.70	10.70	10.70	8.90
2300	2399	13.25	12.75	11.25	11.28	11.25	11.25	10.80
2400	2499	13.75	13.25	11.75	11.75	11.75	11.75	11.75
2500	2599	14.25	13.75	12.25	12.25	12.25	12.25	12.25
2600	2699	14.75	14.25	12.75	12.75	12.75	12.75	12.75
2700	2799	15.25	14.75	13.25	13.25	13.25	13.25	13.25

*For family size above eight (8), the parent fee shall not increase.

(a) Except fees shall not be assessed in:

1. A child protective case under SSBG; or

2. A K-TAP [An AFDC], medical assistance or food stamp case where clients are receiving dependent care disregard.

(b) The DCW shall determine the maximum daily reimbursement rate and parent fee, not to exceed rates as specified in Section 7(2) of this administrative regulation and monitor the payment to the child care provider using the DSS-77, Day Care Billing Statement, herein incorporated by reference. If the parent fails to pay the fee the DCW shall develop a plan with the parent to pay the fee.

(c) The DCW shall advise the client to report family and financial changes that may affect authorization of payments. Reauthorizations shall be determined:

1. Every six (6) months; and
2. Upon receipt of reported changes.

(4) The Cabinet for Families and Children [~~Human Resources~~] may, except for TCC and protective service cases, establish priorities for child care services as follows:

(a) Children with special needs;

(b) Job Opportunity and Basic Skills Program or TCC participants who have children ineligible for child care payments under the programs;

(c) Families who lose eligibility in another child care program; and

(d) Other low income working parents or parents attending training or educational programs.

(5) The Department for Social Services shall exchange TCC client specific information to the Department for Social Insurance within ten (10) days of discovery.

(a) The DCW shall report the following case terminations to the local DSI, Division of Field Services Office:

1. When a TCC client quits a job without good cause;
2. Based on a TCC client's failure to pay a parent fee;
3. Based on a TCC client's refusal to cooperate with the Division of Child Support Enforcement; and

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1. First year: The first year direct and indirect costs to the agency include the cost of one time mailouts and follow-up for the 2600 unregulated providers needing to complete the enrollment process.

2. Continuing costs or savings: Continuing costs to the agency will include only the cost of completing the enrollment process for new providers chosen by parents.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs but the requirement to have minimum health and safety standards for individuals caring for children provides parents with some assurance about the quality of care their children will receive.

(b) Reporting and paperwork requirements: With the required enrollment process the agency will have additional reporting and paperwork requirements to process the application for enrollment and complete the necessary follow-up to allow child care subsidy payments to enrolled providers.

(4) Assessment of anticipated effect on state and local revenues: The only anticipated effect on state and local revenues is that with the completed enrollment process the unregulated providers will be eligible for payment pursuant to the Child Care Development Block Grant, Transitional Child Care Programs, At-Risk Child Care Programs, and child care services pursuant to 904 KAR 2:017.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation is the Child Care and Development Block Grant as amended with the new welfare reform legislation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled for the Notice of Intent on December 30, 1996 during which no additional comment was received from affected entities.

(b) Kentucky: A public hearing was scheduled for the Notice of Intent on December 30, 1996 during which no additional comment was received from affected entities.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The other alternative method to provide minimum health and safety standards and comply with 45 CFR 98.41 was to require all providers receiving CCDBG funds as amended by the new welfare reform legislation to become certified. Since many of the unregulated providers are caring for between one and three children, it was determined that requiring them to become certified as governed by KRS 199.8982 could be detrimental to a parents choice of potential child care providers. The certification requirement may have curtailed the number of eligible providers available for the provision of subsidized child care to families in need.

(8) Assessment of expected benefits: Expected benefits for the enrollment process are that unregulated providers will become enrolled and be eligible for subsidies under the CCDBG, Transitional Child Care Programs, At-Risk Child Care Programs and child care services pursuant to 904 KAR 2:017. Additionally the unregulated providers through the enrollment process will comply with 45 CFR 98.41 which requires at a minimum that providers protect the health and safety of children through the prevention and control of infectious diseases including immunizations, building and physical premises safety and minimum health and safety training. Additionally the requirement to have minimum health and safety standards for individuals caring for children provides parents with some assurance about the quality of care their children will receive.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: One effect on the public health is that the unregulated providers through the enrollment process will comply with 45 CFR 98.41 which requires at a minimum that providers protect the health and safety of children through the prevention and control of infectious diseases including immunizations, building and physical premises safety and minimum

health and safety training.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There is no detrimental effect as unregulated providers would be ineligible for subsidies under the CCDBG as amended by the new welfare reform legislation.

(c) If detrimental effect would result, explain detrimental effect: There would be no detrimental effect.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(10) Any additional information or comments: There are no additional information or comments of which we are aware.

(11) TIERING: Is tiering applied? No. The change in the welfare reform law requires that unregulated providers receiving subsidies statewide are required to comply with 45 CFR 98.41 and become enrolled pursuant to this administrative regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and 45 CFR 98.41

2. State compliance standards. In order to comply with the requirements of the above referenced mandate the state has established an enrollment process in order for unregulated providers to become eligible to receive payments under the Child Care Development Block Grant as amended by PL 104-193.

3. Minimum or uniform standards contained in the federal mandate. Pursuant to 45 CFR 98.41 providers are required to protect the health and safety of children through the prevention and control of infectious diseases including immunization, building and physical premises safety and minimum health and safety training.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, prior to the amendment to the Child Care and Development Block Grant with PL 104-193, all unregulated providers requesting payment were required to become certified. With the expansion of the Child Care and Development Block Grant to include Title IV-A child care providers the cabinet developed the enrollment process that will provide minimum health and safety requirements for providers of child care that are not required by statute to be licensed or certified.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

CABINET FOR FAMILIES AND CHILDREN Division of Family Services Department for Social Services (Amendment)

905 KAR 5:040. Standards for state-funded spouse abuse shelters.

RELATES TO: KRS 194.535, 209.030(7), 209.160
STATUTORY AUTHORITY: KRS 194.050, 194.535, 209.030(1),
EO 96-862
NECESSITY, FUNCTION, AND CONFORMITY: KRS 209.030(1) authorizes the Cabinet for Families and Children [~~Human Resources~~]

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(2) The spouse abuse shelter shall be of sound construction and suitable for residential use.

(3) The spouse abuse shelter shall:

- (a) Be dry;
- (b) Be adequately heated, ventilated, and lighted;
- (c) Have windows, doors, stoves, heaters, furnaces, pipes, and ventilating fans protected;
- (d) Have screening provided for windows and doors unless air-conditioned;

(e) Have floors free from splinters and easily cleaned; and

(f) Have gas heaters and stoves properly ventilated.

(4) A recreation area with comfortable furnishings in sufficient quantity to accommodate the number of children and adults using it shall be provided.

(5) Bedrooms shall:

(a) Be equipped with a bed for each client, of adequate size, with suitable springs, mattress, pillow, and bedding; and

(b) Have adequate closet space and individual drawer space.

(6) The spouse abuse shelter and grounds shall be well maintained.

(7) Each spouse abuse shelter shall maintain a security system to provide for the physical safety of the client.

Section 5. Medical and Dental. The spouse abuse shelter shall assure that access to emergency medical and dental services are available within the community or within close proximity.

Section 6. Meals. The spouse abuse shelter shall provide clients with three (3) meals per day, each including foods from at least three (3) of the four (4) basic food groups.

Section 7. Services. (1) The spouse abuse shelter shall maintain and provide services on a continuing basis and for as many hours as are necessary to meet the needs of eligible persons.

(2) Staff of the spouse abuse shelter are to apprise clients of resources available from the spouse abuse shelter or by referral which may assist them in the solution of their problems.

(3) Upon entrance into the spouse abuse shelter, or if receiving a spouse abuse related service, the following minimal information shall be obtained and recorded in a permanent record:

- (a) Name, date of birth, sex, address, marital status;
- (b) Names and date of birth of accompanying dependents;
- (c) Identification of reason for intake;
- (d) Identification of physical injury;
- (e) Medical attention provided;
- (f) Identification of physical condition or ailment which may impact upon services to be offered the client; and
- (g) Prior contacts with a spouse abuse shelter.

(4) Immediately following gathering the information required in subsection (3) of this section, the information shall be reported to the offices of the department located within the county where the spouse abuse shelter exists. This report shall constitute compliance with the provisions of KRS 620.030(2) and 209.030(2).

(5) Upon completion of the gathering of information as required in subsection (3) of this section, a service plan shall be developed for each individual and accompanying dependents setting forth a summary of services needed by the individual and available within the spouse abuse shelter and community.

(6) Referral of the client for services outside the spouse abuse shelter shall be documented and maintained in the client's permanent case record. Service coordination with other agencies shall also be documented in the case record.

(7) Daily program activities shall be offered with emphasis upon each client's physical, intellectual and social needs.

(8) The spouse abuse shelter shall have and enforce a policy which prohibits possession of weapons, alcohol or nonprescribed drugs while in the shelter.

(9) The spouse abuse shelter shall keep client medication in a locked cabinet. Spouse abuse shelter staff shall not dispense nor administer medication but allow each client to take their own medication as prescribed. Shelter staff shall also keep a record of medication taken by a client during their stay at the spouse abuse shelter.

(10) Cruel or unusual punishment shall not be used.

(11) Each spouse abuse shelter shall develop and implement procedures to provide for the movement to more appropriate accommodations for those clients:

(a) Who present a danger to self or others; or

(b) Who refuse to comply with spouse abuse shelter rules.

(12) Each spouse abuse shelter shall establish written procedures to be given to each client upon initial contact describing the services to be rendered and a method for handling client complaints. The complaint procedure shall include an opportunity for the client to have access to the department's grievance procedure for review. The department shall have access to client records in the possession of each spouse abuse shelter for review upon the filing of a service complaint by the client.

(13) Each spouse abuse shelter shall assure that services are available to residents in the area development district in which the agency is located. A spouse abuse shelter may accept referrals on a statewide basis so long as space is available. Each spouse abuse shelter shall cooperate with other spouse abuse agencies on a statewide basis.

(14) Each spouse abuse shelter shall develop and implement procedures for emergency and temporary shelter closure.

(15) Each spouse abuse shelter shall maintain a record of unusual incidents involving a client or clients and shall forward a copy of the incident report to the department.

(16) Each spouse abuse shelter shall develop and implement a plan for the provision of outreach services in counties of the area development district in which it is located.

Section 8. Records. (1) Client case records shall be maintained on each individual or family unit served by the spouse abuse shelter during the time that the client or family unit is receiving services.

(2) Client case records of each agency shall be maintained as confidential and shall not be shared with persons outside the cabinet. Records of the Cabinet for Families and Children [Human Resources], Department for Social Services, in the possession of an agency are strictly confidential and shall be shared with other individuals or organizations only as provided in KRS 209.140, 194.060, and 620.050 and with the prior written permission of the department.

(3) The department shall have access to the agency property and to records of services provided, including but not limited to agency financial and client case records for the purpose of auditing and monitoring.

DONNA HARMON, MSW, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: February 20, 1997

FILED WITH LRC: February 24, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 21, 1997 at 9 a.m. in the Health Services Auditorium, Cabinet for Human Resources Building, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify this agency in writing by April 14, 1997. If no notification of intent to attend the hearing is received by that date the hearing may be cancelled. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. 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 to: Judy Trigg, Regulations Coordinator, Office of the Counsel, Cabinet for Families and Children, 275 East Main Street, 4-West,

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procedures for which the laboratory is certified under Medicare and in accordance with 907 KAR 1:575 when prescribed by a physician, podiatrist, ~~or~~ dentist, or a person authorized by the physician, podiatrist or dentist, as long as the physician, podiatrist or dentist approved the service.

(2) X-ray services (radiological services which include but are not limited to x-rays, ultrasound, computer assisted tomography and magnetic resonance imaging) shall be limited to those procedures provided by a facility licensed to provide radiological services and which meets the requirements of 42 CFR 440.30 as limited herein:

(a) The facility shall participate in the Medicare Program;

(b) The procedures shall be ordered by a licensed physician, oral surgeon, ~~or~~ dentist, podiatrist or a person authorized by the physician, oral surgeon, dentist, or podiatrist as long as the physician, oral surgeon, dentist, or podiatrist approved of the service;

(c) The services shall be provided under the direction or supervision of a licensed physician; and

(d) The facility shall meet the requirements of 42 CFR Part 493 with regard to laboratory certification, registration or other accreditation as appropriate.

Section 2. Material Incorporated by Reference. (1) The "Independent Laboratory and Other Lab and X-ray Services Manual" dated August 1996 shall be incorporated by reference in this administrative regulation.

(2) The manual shall be on file in the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

(3) The manual shall be available for review during the normal business week. Monday through Friday, 8 a.m. through 4:30 p.m. (eastern standard time), excluding state holidays.

(4) Each participating provider shall be provided one (1) copy of the manual and appropriate manual updates following their incorporation by reference. Additional copies may be obtained from the Department for Medicaid Services upon payment of an appropriate fee in accordance with KRS 61.872. [The amendments to Section 1 of this administrative regulation shall be effective with regard to services provided on or after December 1, 1992.]

JOHN H. MORSE, Commissioner and Secretary

APPROVED BY AGENCY: March 13, 1997

FILED WITH LRC: March 14, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1997 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 1997 five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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: Mae B. Lewis, Administrative Specialist Principal, General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7900, Fax Number: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick, Trish Howard, or Anita Moore

(1) Type and number of entities affected: All providers of independent laboratory services and other lab and x-ray services

participating in the Medicaid Program.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Budget neutral

2. Continuing costs or savings: Budget neutral

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: To improve access for Medicaid recipients to independent laboratory and other lab and x-ray services.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety, or welfare of Medicaid recipients.

(9) 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:

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

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(a) Receives RSDI or railroad retirement benefits based on disability; or

(b) Received SSI based on disability during any portion of the twelve (12) months preceding the application month and discontinuance was due to income or resources, not to improvement in physical condition; or

(c) Has been determined to meet the definition of blindness or permanent and total disability as contained in 42 USC 416 or 1382C by the Social Security Administration; or

(d) Has previously been determined to be permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction with no reexamination requested and there is no visible improvement in condition.

JOHN H. MORSE, Commissioner, Secretary

APPROVED BY AGENCY: March 6, 1997

FILED WITH LRC: March 7, 1997 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1997 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 1997 five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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: Mae B. Lewis, Administrative Specialist Principal, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick, Trish Howard or Anita Moore

(1) Type and number of entities affected: All recipients participating in the Medicaid Program.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Budget neutral.

2. Continuing cost or savings: Budget neutral.

3. Additional factors increasing or decreasing costs: See 907 KAR 1:705.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising

from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be phased in statewide.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Public health is expected to improve.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Medicaid procedures for determining retroactive and continuing Medicaid eligibility in counties served by Managed Care Partnership (907 KAR 1:705) would be in conflict with this administrative regulation.

(9) 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:

(10) Any additional information or comments: Any costs or savings are identified in 907 KAR 1:705.

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq. The Department was awarded a waiver under Section 1115 of the Social Security Act to implement a demonstration project known as the "Kentucky Health Care Partnership."

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

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? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. No

3. State the aspect or service of local government to which this administrative regulation relates. None

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year

NEW ADMINISTRATIVE REGULATIONS RECEIVED AS OF NOON, MARCH 14, 1997

KENTUCKY REVENUE CABINET
Office of General Counsel
Division of Tax Policy and Research
(New Administrative Regulation)

103 KAR 16:200. Consolidated Kentucky corporation income tax return.

RELATES TO: KRS 141.200

STATUTORY AUTHORITY: KRS 131.130(1), 141.050(4)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to explain and clarify the provisions of KRS 141.200 pertaining to the filing of a consolidated return. This administrative regulation will inform and educate corporations which must file Revenue Form 720, Kentucky Corporation Income and License Tax Return.

Section 1. Definitions. (1) "Combined return" means a Kentucky corporation income tax return by which Kentucky taxable income is reported and attributed to members of a unitary business group using the unitary business concept.

(2) "Common parent corporation" means the member of an affiliated group which directly owns stock meeting the requirements of Section 1504(a)(2) of the Internal Revenue Code in at least one (1) other member of the affiliated group and whose stock is not owned directly by any other member of the affiliated group as required by Section 1504(a)(2) of the Internal Revenue Code.

(3) "Corporations exempt from taxation" means any corporation enumerated in KRS 141.040(1)(a) through (h).

(4) "Election period" means a period of ninety-six (96) consecutive calendar months beginning with the first day of the first taxable year for which an election to file a consolidated return is made and ending on the last day of the taxable year which includes the 96th consecutive calendar month provided the affiliated group remains in existence in accordance with Treasury Regulation §1.1502-75(d).

(5) "Unitary business concept" means a method of determining taxable income within a state based on the unitary business group's activities within that state.

(6) "Unitary business group" means a group of related corporations which share or exchange value as evidenced by the existence of the following characteristics:

(a) The operation of one (1) corporation is dependent upon, or contributes to, the operation of another corporation;

(b) There is a unity of ownership, operation, and use among the corporations; or

(c) The corporations exhibit functional integration, centralization of management, and economies of scale.

Section 2. Election to File a Consolidated Return. (1) General rule.

(a) The election to file a consolidated return shall be made by the common parent corporation on behalf of all members of the affiliated group by filing Revenue Form 722, Election to File Consolidated Kentucky Corporation Income Tax Return, on or before the date prescribed by law for filing the return, including extensions, for the first taxable year for which the election is made.

(b) Except as provided in subsections (2) and (3) of this section, failure to file Revenue Form 722 within the prescribed time period shall mean that no election has been made by the affiliated group to file a consolidated return and that each member of the affiliated group subject to tax under KRS 141.040 shall be required to file a separate return pursuant to KRS 141.200(2).

(2) Transition rules.

(a) If an affiliated group filed a consolidated return without filing Revenue Form 722 for the taxable year beginning prior to December 31, 1995 and ending on or after December 31, 1995, in order for the affiliated group to elect to file a consolidated return beginning with that taxable year, Revenue Form 722 shall be mailed to the Revenue Cabinet, Corporation Tax Section, P.O. Box 1302, Frankfort, Kentucky 40602-1302, no later than February 15, 1998.

(b) If the members of an affiliated group filed separate returns or a combined return for the taxable year ending on or after December 31, 1995, but prior to April 5, 1996, the affiliated group may elect to file a consolidated return beginning with that taxable year by filing Revenue Form 722 with the cabinet no later than February 15, 1998. A consolidated return amending the separate or combined returns shall be filed by February 15, 1998.

(3) Taxable years following an election period.

(a) Except as provided in paragraph (b) of this subsection, for any taxable year beginning after the expiration of the election period, each member of the affiliated group subject to Kentucky corporation income tax in accordance with KRS 141.040 shall file a separate return unless the affiliated group elects to file a consolidated return.

(b) The filing of a consolidated return on or before the date prescribed by law for filing the return, including extensions, for the first taxable year beginning immediately following the expiration of an election period, shall constitute a new election to file a consolidated return and shall establish a new election period.

(c) If the expiration of an election period occurs because an affiliated group ceases to exist, each member of the affiliated group subject to Kentucky corporation income tax in accordance with KRS 141.040 shall file a separate return beginning with the first taxable year immediately following the date the affiliated group ceases to exist unless it becomes a member of another affiliated group which has elected to file a consolidated return.

(4) Effect of an election.

(a) An election to file a consolidated return is an irrevocable election binding on both the cabinet and the affiliated group for the election period.

(b) The administrative provisions of Treasury Regulation §1.1502-75(a) to (c) shall not apply for Kentucky purposes.

Section 3. Corporations Included in a Consolidated Return. (1) When a consolidated federal return is filed. If any member of the affiliated group electing to file a consolidated Kentucky return pursuant to Section 2 of this administrative regulation is included in a consolidated federal return for the taxable year, the Kentucky return must include the same corporations included in the consolidated federal return for the taxable year except those corporations exempt from taxation.

(2) When a consolidated federal return is not filed. If no member of the affiliated group electing to file a consolidated Kentucky return pursuant to Section 2 of this administrative regulation is included in a consolidated federal return for the taxable year, the Kentucky return shall include all members of the affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations except those corporations exempt from taxation.

Section 4. Carryover or Carryback of Items of Loss, Deduction or Credit. (1) Carryover or carryback between a separate return and a consolidated return. If a separate return was filed for taxable years prior to the taxable years for which a consolidated return is filed and a carryover or carryback occurs between the separate return and the consolidated return, the carryover or carryback amount shall be limited in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations and shall be adjusted

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heard at this hearing shall notify this agency in writing by April 23, 1997, five days prior to the 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. This hearing is open to the public. Any person who wishes to be heard 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jennifer C. Hays, Tax Consultant, Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone Number: (502) 564-6843, Facsimile Number: (502) 564-9565, E-Mail Address: jhays@mail.state.ky.us

REGULATORY IMPACT ANALYSIS

Contact person: Jennifer C. Hays

(1) Type and number of entities affected: Any affiliated group electing to file a consolidated return in accordance with KRS 141.200(3) will be affected by this administrative regulation. It is estimated that no more than 1,500 corporations currently filing Kentucky corporation income tax returns will be included in an affiliated group electing to file a consolidated return.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: This administrative regulation will have no effect on the cost of living and employment within Kentucky.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: This administrative regulation will have no effect on the cost of doing business within Kentucky.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: The administrative regulation clarifies the procedure for filing a consolidated return thereby reducing the administrative costs associated with filing a consolidated return.

2. Second and subsequent years: The administrative regulation clarifies the procedure for filing a consolidated return thereby reducing the administrative costs associated with filing a consolidated return. The reduced administrative costs will continue for the entire election period.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The administrative regulation clarifies the procedure for filing a consolidated return thereby reducing the administrative costs associated with processing a consolidated return.

2. Continuing costs or savings: The administrative regulation clarifies the procedure for filing a consolidated return thereby reducing the administrative costs associated with processing a consolidated return. The reduced administrative costs will continue for the entire election period.

3. Additional factors increasing or decreasing costs: There are no additional factors which either increase or decrease costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the promulgating administrative body.

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and

enforcement of administrative regulation: None required.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: No impact.

(b) Kentucky: No impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are allowed in accordance with KRS 141.120 and 141.200.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No effect.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) 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: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The provisions of this administrative regulation will be applied equally to all affiliated groups electing to file a consolidated return.

GENERAL GOVERNMENT CABINET

State Board of Registration for Professional Engineers and Land Surveyors (New Administrative Regulation)

201 KAR 18:210. Retired and inactive status.

RELATES TO: KRS 322.100, 322.160(1)

STATUTORY AUTHORITY: KRS 322.100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.100 authorizes the board to establish registration fees for engineers and land surveyors by administrative regulation. KRS 322.160(1) authorizes the board to establish renewal fees by administrative regulation. The function of this administrative regulation is to establish the registration and renewal fee for retired or inactive engineers and land surveyors.

Section 1. "Professional engineer, retired" or "professional land surveyor, retired" shall mean a person who has been duly registered as a professional engineer or professional land surveyor by the board and who chooses to relinquish or not to renew his registration and who applies to and is approved by the board to be granted the use of the honorific title "professional engineer, retired" or "professional land surveyor, retired." The biennial fee to be paid to the board shall be twenty (20) dollars. Renewals shall be effectuated in the same manner as regular renewals, except that professional development hours are not required for retired status. A "professional engineer, retired" or a "professional land surveyor, retired" shall not practice or offer to practice his profession. Reinstatement to active registration shall require board approval and completion of eight (8) professional development hours for each calendar year on retired status, up to a maximum of thirty-two (32) professional development hours.

Section 2. "Professional engineer, inactive" or "professional land surveyor, inactive" shall mean a person who has been duly registered as a professional engineer or professional land surveyor by the board and who chooses not to engage in the practice of engineering or land surveying in the state for an undetermined period of time, but who

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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: John Grant, Assistant Attorney General, Capitol Building, 700 Capitol Avenue, Frankfort, Kentucky 40501-3449, Telephone: (606) 564-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: John Grant

(1) Type and number of entities affected: Approximately 1200 licensed or certified appraisers in Kentucky.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation was amended to comply with KRS Chapter 13B and federal law. No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effects are anticipated on public health and environmental welfare.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

(9) Identify any statute, administrative regulation or government

policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensed and certified appraisers are treated uniformly under the law.

PUBLIC PROTECTION AND REGULATION CABINET Office of the Petroleum Storage Tank Environmental Assurance Fund (New Administrative Regulation)

415 KAR 1:130. Small operators tank removal account.

RELATES TO: KRS 224.60-130, 224.60-140

STATUTORY AUTHORITY: KRS 224.60-130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130, as amended by HB 167 (1996), requires the fund to establish an account to reimburse small owners for the reasonable cost of tank system removal. This account may not be used when the owner intends to replace or upgrade the tank system. This administrative regulation establishes the eligibility requirements and the ranges of reimbursement for this account.

Section 1. Applicability. The provisions of this administrative regulation shall apply only to owners of a petroleum storage tank or tanks containing motor fuels that are required by state or federal law to remove or upgrade their tanks on or before December 22, 1998.

Section 2. Eligibility. (1) An owner may be eligible for reimbursement from this account if the following requirements are met:

(a) The owner is an individual having a five (5) year average adjusted gross income of \$50,000 or less, and owns full or partial interest in ten (10) or fewer tanks;

(b) The owner is a partnership having a five (5) year average adjusted gross income of less than \$50,000, and the members of the partnership own full or partial interest in a total of ten (10) or fewer tanks;

(c) The owner is a Subchapter S corporation or a limited liability corporation having a five (5) year average total income of less than \$50,000, and the shareholders in the corporation own full or partial interest in a total of ten (10) or fewer tanks;

(d) The owner is a nonprofit corporation and owns ten (10) or fewer tanks;

(e) The tanks are located on a facility that is or was involved in the retail sale or wholesale distribution of motor fuels;

(f) The tanks are registered with the Division of Waste Management, pursuant to KRS 224.60-105;

(g) The owner certifies that the retail sale or wholesale distribution of motor fuels at the facility will permanently cease upon removal of the tanks and that all known tanks at the facility are being removed or closed in place; and

(h) The owner has owned the tanks for more than one (1) year prior to the date of the application for assistance from the fund.

(2) The discovery of previously unknown or abandoned tanks shall not effect the eligibility of an otherwise eligible owner.

(3) It is not necessary for the tanks to be in operation prior to their removal.

Section 3. Account Use. (1) Funds in this account shall be used for:

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may be inspected and obtained at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leawood Drive, Frankfort, Kentucky 40601, (502) 564-5981. The business hours of the fund are 8 a.m. to 4:30 p.m., local prevailing time. In addition to the completed claim form, the owner shall submit the following in support of the request:

- (a) The Closure Assessment Report;
 - (b) Original invoices in support of any costs claimed under Section 5(3) of this administrative regulation; and
 - (c) A copy of the "no further action" notice from the cabinet.
- (2) The fund shall review the claim requests for the following:
- (a) The number and size of tanks removed;
 - (b) Verification of proper costs from Section 5(2) of this administrative regulation; and
 - (c) Review of the necessity and reasonableness of any costs claimed under Section 5(3) of this administrative regulation.
- (3) The fund may request supporting documentation in addition to that listed in subsection (1) of this section to verify the reasonableness or necessity of any cost.
- (4) If circumstances necessitate the closure in place of tanks, rather than their removal, the costs incurred may be reimbursed from this account. The owners bears the burden of showing the necessity for the closure in place and the cost effectiveness of closure in place verses tank removal.

LAURA M. DOUGLAS, Secretary

ROBERT E. NICKEL, Executive Director

APPROVED BY AGENCY: March 11, 1997

FILED WITH LRC: March 12, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 30, 1997 at 1:30 p.m. at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing of their intent to attend by April 23, 1996, five days prior to the hearing. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed amendment of this 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 be heard at the public hearing, you may submit written comments on the proposed amendment to this regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed amendment of this regulation to the contact person.

CONTACT PERSON: David B. Wicker, Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leawood Drive, Frankfort, Kentucky 40601, (502) 564-5981.

REGULATORY IMPACT ANALYSIS

Agency contact: David B. Wicker

(1) Type and number of entities affected: The proposed regulation will affect a small portion of the approximately 15,000 facilities with underground storage tanks containing petroleum products.

(a) Direct and indirect costs or savings to those affected:

1. First year: Owners of petroleum storage tanks that meet the requirements of this account will be relieved of the cost of removing the tanks if the removal is required by state and federal law.

2. Continuing costs or savings: This proposed regulation should not increase cost to the public.

3. Additional factors increasing or decreasing costs: (Note any effects upon competition): There are no additional factors increasing or decreasing costs.

(b) Reporting and paper requirements: Tank owners or operators will be required to complete, file, maintain and process application and claim forms.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Office of the Petroleum Storage Tank Environmental Assurance Fund receives operating expenses from the Petroleum Storage Tank Environmental Assurance Fund. The regulation proposes to commit \$3,000,000 per year to this account.

2. Continuing costs or savings: The fund anticipates continuing costs associated with staff and general operation of the program.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs. The fund believes that it has adequate staff at this time to administer this program.

(b) Reporting and paperwork requirements: The fund is required to collect, review, maintain, and process review files.

(3) Assessment of anticipated effect on state and local revenues: See fiscal note on local government.

(4) Assessment of alternative methods: reasons why alternatives were rejected:

(a) HB 167 required creation of this regulation.

ALTERNATIVE:

1. LESS STRINGENT: The fund cannot be less stringent than the statute allows.

2. MORE STRINGENT: The fund cannot be more stringent than the statute allows.

3. PRESENT PROPOSAL: The present proposal complies with KRS 224.60-130, as amended by HB 167.

(5) Geographical and environmental impact

(a) Geographical: The effect of this regulation will be equal through all geographic regions of the state.

(b) Environmental: This regulation will benefit the environment as it provides a method for low income tank owners to remove potential environmental hazards.

(6) 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: There is no conflict.

(b) If in conflict, was report made to harmonize the proposed regulation with conflicting provisions: There is no conflict.

(7) Source of revenue: The monies expended by the fund will come from the Petroleum Storage Tank Environmental Assurance Fee, pursuant to KRS 224.60-145.

(8) Benefits of the regulation: This regulation will benefit the environment as it provides a method for low income tank owners to remove potential environmental hazards.

(9) Any additional information or comments: There is no additional information.

(10) Tiering statement: Was tiering applied: Yes, tiering was applied. The amount of reimbursement an owner is entitled to is tiered based on the number of tanks owned. The regulation only applies to tank owners with less than \$50,000 annual income.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. None

2. State compliance standards. None

3. Minimum or uniform standards contained in the federal mandate. None

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.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No, Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Mines and Minerals

Division of Oil and Gas

(New Administrative Regulation)

805 KAR 1:160. Posting of a danger sign on a facility used for the storage of oil.

RELATES TO: KRS 353.656

STATUTORY AUTHORITY: KRS 353.500, 353.540, 353.656

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.656 requires a well operator to display a sign printed with the word "Danger" and other information specified by the department near or on a facility used for storage of oil, whether it is in active production or has been abandoned. This administrative regulation specifies the size, wording, coloration, and placement of the sign.

Section 1. Definitions. In addition to those set out in KRS 353.510, the following definitions shall apply to this administrative regulation:

(1) "NFPA" means the National Fire Protection Association.

(2) "Tank battery" means a single storage tank or group of storage tanks that are interconnected or are less than three (3) feet apart, where oil is collected from a wellhead.

Section 2. (1) An operator or owner shall display a printed sign on each tank battery, whether it is in active production or has been abandoned.

(2) Each sign shall, at a minimum, contain the following word and phrases:

(a) "Danger";

(b) "No smoking or open flame";

(c) "Extremely flammable liquid and vapor";

(d) "May cause flash fire";

(e) "No trespassing"; and

(f) "Petroleum crude oil".

(3) Symbol. A no-smoking symbol with a cigarette crossed through shall be displayed on each side of the words "no smoking or open flame".

Section 3. (1) The sign shall also use the numbering system set out in the NFPA Edition 704, entitled "Standard System for the Identification of the Fire Hazards of Materials", which has a classification and marking system for identification of the fire hazards of certain materials, including petroleum crude oil. Under this system, the following classifications of petroleum crude oil are subject to the numbers and colors indicated.

(2) A "health hazards" ranking of "1" shall be identified by a black "1" in a blue square located in a square-on-point field at the nine (9) o'clock position, or the number may be colored blue at the nine (9) o'clock position without the colored square.

(3) A "flammability hazards" ranking of "3" shall be identified by

a black "3" in a red square located in a square-on-point field at the twelve (12) o'clock position, or the number may be colored red in the twelve (12) o'clock position without the colored square.

(4) A "reactivity hazards" ranking of "0" shall be identified by a black "0" in a yellow square located in a square-on-point field at the three (3) o'clock position, or the number may be colored yellow in the three (3) o'clock position.

Section 4. Dimensions and Coloration of the Sign. (1) The sign shall be no smaller than twenty-eight (28) inches in height and seventeen (17) inches in width.

(2) The letter size for a sign's required wording shall be as follows:

(a) The word "danger" shall be in uniformly sized letters not less than three (3) inches nor more than four (4) inches in height;

(b) The words "no smoking or open flame" shall be in uniformly sized letters not less than one (1) inch nor more than one and one-half (1 1/2) inches in height; and

(c) The words set out in Section 2(2)(c) through (f) of this administrative regulation shall be in uniformly sized letters not less than one-half (1/2) inch nor more than one (1) inch in height.

(3) The no-smoking symbol with a cigarette crossed through shall be not less than one and one-half (1 1/2) inches nor more than three (3) inches in height.

(4) The NFPA numbers shall be not less than one-half (1/2) inch nor more than one (1) inch in height.

(5) The background color of the sign shall contrast with the foreground color of the letters and the NFPA numbers to make them clearly visible (e.g., white background and black letters).

Section 5. There shall be a minimum of one (1) sign per tank battery unless individual tanks are controlled by more than one (1) operator, in which case a sign is required for each tank. A sign shall be displayed a minimum of five (5) feet off the ground, at the most visible location from approach, and shall be maintained in proper condition and replaced when it is no longer readable, is damaged, vandalized or if it is stolen.

Section 6. Signs in Existence Prior to this Administrative Regulation. An operator having a danger sign posted on a tank or tank battery prior to the effective date of this administrative regulation may keep the existing sign posted under the following conditions:

(1) The operator shall petition the director in writing for a waiver to use a sign which is designed in a manner other than that required in this administrative regulation.

(2) Each sign shall be clearly displayed on each tank or tank battery at the most visible location from approach.

(3) The existing sign shall not be painted on the tank.

(4) Each danger sign shall be replaced with the sign described in this administrative regulation when it is no longer readable, is damaged, vandalized or if it is stolen.

Section 7. Violations for Failure to Post a Sign. (1) Upon locating a tank or tank battery without a danger sign, the inspector shall issue a notice of noncompliance to the last known operator.

(2) The notice of noncompliance shall be mailed to the operator by certified mail, return-receipt requested. If the violation is not corrected by the posting of a proper sign within forty-five (45) days of his receipt of the notice of noncompliance, the operator shall be subject to the penalties set out in KRS 353.991.

Section 8. Material Incorporated by Reference. (1) The following material is incorporated by reference: NFPA Edition 704, "Standard System for the Identification of Fire Hazards of Materials", 1990 edition, Chapters 1-4 and Figure 6.1.

(2) This material may be examined or copied at the Kentucky Department of Mines and Minerals, 3572 Ironworks Pike, Lexington,

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PUBLIC PROTECTION AND REGULATION Department of Mines and Minerals Division of Oil and Gas (New Administrative Regulation)

805 KAR 1:170. Content of the operations and reclamation proposal; form on which the proposal is filed.

RELATES TO: KRS 353.520, 353.570, 353.590, 353.5901, 353.595, 353.597

STATUTORY AUTHORITY: KRS 353.540, 353.550, 353.5901, 353.670

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.5901(1) requires a well operator to submit to the Department of Mines and Minerals an operations and reclamation proposal applicable to all tracts on which there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed. This administrative regulation specifies the content of the operations and reclamation proposal, creates the form on which that proposal is to be filed, and provides for the form on which well transfers are indicated.

Section 1. Definitions. In addition to those set out in KRS 353.510, the following definitions shall apply to this administrative regulation:

(1) "Cross drain" means an open ditch, constructed across the roadway, to carry off road surface water and which is not intended to replace culverts or prohibit vehicular traffic.

(2) "Diversion ditch" means a channel or ridge constructed across a slope for diverting surface runoff.

(3) "Filter strip" means a natural vegetative strip, left undisturbed, between the disturbed construction area and a water course, and which acts as a buffer area to catch sediment before it enters the water course.

(4) "Final reclamation" means the date on which the operator has completed his drilling operations at the well site, has plugged the well and has performed all obligations described in the operations and reclamation proposal.

(5) "Surface owner" means the person in whose name title to the surface of the land subject to disturbance by drilling operations is recorded and who is assessed property taxes by the property valuation administrator of the county where the land is located.

Section 2. (1) The operations and reclamation proposal shall be filed on Form ED-10, effective February 14, 1997, entitled "Plan to Prevent Erosion and Sedimentation from a Well Site".

(2) In addition to the requirements set out in KRS 353.5901, the following information shall be set out on Form ED-10:

(a) The operator's and surface owner's names, addresses and telephone numbers, the county in which the well is proposed to be drilled, and the well number;

(b) A listing or description of fertilizers and soil amendments and seed or trees planted for each affected area requiring revegetation treatment and the types and amounts per acre of seed and trees planted; and

(c) A detailed drawing of the road, well location and proposed area of disturbance, which shall be in sufficient detail to allow ready identification of surface features and which shall satisfy the following requirements:

1. The surface owner's tract(s) shall be identified on the drawing, which shall also indicate the acreage to be disturbed;

2. The drawing may be made over an enlarged section of the United States Geological Survey (USGS) 1:24000 topographic map and may be enlarged to approximately 1"=400' and be submitted on an eight and one-half (8 1/2) inch by fourteen (14) inches sheet, using the symbols set out on Form ED-10.

3. The drawing shall have a legend with the operator's and

surface owner's names, the scale of the map, the well name and number, and the lease name.

(3) Signatory sections for the operator and surface owner shall be completed on Form ED-10 in the following manner:

(a) The name and title, if any, of the operator shall be indicated and his signature notarized, which signature shall be either that of an officer of the company or of some other person who holds a duly recorded power of attorney to execute documents, a copy of which power of attorney shall be filed with the division. If the prospective operator is an individual, the signatory shall be in the same name as the applicant's or a power of attorney to execute documents shall be submitted to the division if the signatory is someone other than the applicant;

(b) The surface owner's name shall be indicated and his signature notarized if he approves of the operations and reclamation proposal, together with any attachments submitted with it.

Section 3. Unsigned Reclamation Forms. If the owner of the surface of the severed minerals tract is unwilling or for some other reason has failed to execute Form ED-10, the operator shall file a written petition for mediation, together with the following, at the time the application for permit is filed, in accordance with KRS 353.5901:

(1) A copy of the certified mail receipt verifying that the operations and reclamation proposal, the statement required in KRS 353.5901(2)(b), and the plat were mailed to and received by the surface owner or, if not received, the original or a copy of the unclaimed envelope. A copy of the operations and reclamation proposal and the attachments enclosed in the envelope mailed to the surface owner shall also be included.

(2) If the surface owner cannot be reached at his last known address of record and certified mail is returned as undeliverable or unknown, the operator shall publish a notice of intended activity, together with a request for information on the whereabouts of the surface owner, which publication shall be made two (2) consecutive times in a local newspaper in the county where the proposed well is located and once in a newspaper with statewide distribution. A copy of the notice of intended activity and request for surface owner information shall be included when the operator files his application for permit and shall include:

(a) The name and address of the operator;

(b) A brief description of the intended activity as set out in the operations and reclamation proposal;

(c) The date upon which the surface owner must respond; and

(d) A statement of where interested persons may obtain additional information as to the operator's intended activity.

Section 4. Mediation of Dispute. (1) The surface owner may file with the division a request for mediation at any time after he has received from the operator the proposed operations and reclamation proposal, but only after the operator has filed his request for mediation and not later than the time set forth in the Notice of Request for Mediation provided by the department and mailed to the surface owner. The surface owner's request to participate in mediation shall include the mediation fee, in accordance with KRS 353.5901(2)(b).

(2) If the surface owner does not file his mediation fee within the time and in the manner required in the Notice of Request for Mediation, he shall be deemed to have failed to satisfy the statutory requirements applicable to mediation, the mediator shall file a report noting such failure and recommend the acceptance of the operator's operations and reclamation proposal.

(3) Upon his receipt of a request for mediation, proof of notification or attempted notification and copies of the published notice of intended activity, if required by Section 3 of this administrative regulation, and the mediation fee required in KRS 353.5901(4), the mediator shall issue an order scheduling mediation and send it by certified mail to the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operations and

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trative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person.

CONTACT PERSON: Rick Bender, Kentucky Department of Mines and Minerals, Post Office box 14090, Lexington, Kentucky 40512-4090, (606) 246-2026 (Office), (606) 246-2038 (Fax).

REGULATORY IMPACT ANALYSIS

Contact Person: Rick Bender

(1) Type and number of entities affected: The entities affected by this proposed administrative regulation will be those persons whose property is subject to the effects of oil and gas drilling and production efforts and the oil and gas operators of Kentucky who pursue such efforts.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received:

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The direct costs associated with this proposal are attributable to the statutory requirement that an operator, on lands on which oil and gas minerals have been severed from the surface estate, file an operations and reclamation proposal when applying for a permit to drill. This proposal requires a prospective operator to file a detailed site drawing, a description of the area to be disturbed, steps taken to prevent erosion, and the proposed revegetation treatment. It is anticipated that the in-house cost for filling out the reclamation form and submitting the detailed drawing is approximately \$100. If a smaller operator does not have the expertise to satisfy the requirements of the administrative regulation, contracting for the work would require an expenditure of approximately \$500.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: This administrative regulation requires an operator to file the reclamation forms and drawings required with the operations and reclamation proposal.

2. Second and subsequent years: There are a few additional filings, one required with well transfers and one to advise the agency of the final well plugging and restoration of an area disturbed during drilling or completion and production of the well site.

(3) Effects on the promulgating administrative body: This proposed administrative regulation will require the agency to perform technical review of the operations and reclamation proposal prior to permitting on a severed minerals tract. It will require the field inspector to perform a predrill well site inspection, a well site inspection at the time of reclamation and a final well site inspection at one (1) year from the date of reclamation. If the proposal is submitted unsigned by the surface owner and mediation is requested by the operator, the agency's general counsel shall perform the mediation and issue an order according to which the operation and reclamation shall be performed. If field violations are noted under the reclamation proposal, field inspectors shall require remedial action to be taken.

(a) Direct or indirect costs or savings: As noted above, the time associated with technical review and field inspections will cost the agency approximately \$50,000, annually, most of which will be absorbed by the agency through maximization of existing resources and allocation among current fixed costs, such as salaries and travel. Little, if any, additional net costs to the agency are therefore anticipated.

1. First year: The number of permits issued on severed tracts is small, and with existing permitting and field inspection in place, the additional work for the office and field staff can be absorbed in the current work load.

2. Continuing costs or savings: Since permitting and field inspections are recurring obligations, the costs described above are anticipated to remain fairly consistent from year to year.

3. Additional factors increasing or decreasing costs: If there is an increase in permit activity on severed mineral tracts, costs may increase, just as they would be expected to decrease if such activity decreases.

(b) Reporting and paperwork requirements: Since this agency is currently permitting and performing field inspections, little additional impact on associated reporting and paperwork activities is anticipated as a result of this proposed administrative regulation.

(4) Assessment of anticipated effect on state and local revenues: It is anticipated that this administrative regulation will have minimal effect on state and local economies, since only 70 to 100 wells will be drilled per year on lands having severed minerals, based on 1996 activity, thereby requiring operators to satisfy the requirements of this proposal.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The current budget allocated for permitting and field inspection will provide for funding of this proposed regulation. It is anticipated that no additional funding will be required.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: The requirements of this administrative regulation are necessary to better provide protection of the surface owner's property from erosion and sedimentation from an operator's drilling activity and to better provide protection of his water sources. This proposal is required to implement the mandate of KRS 353.5901.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Benefits to the surface owner will include better description of the operator's activities relating to the operations and reclamation proposal in a manner designed to prevent erosion, control drainage, establish permanent vegetative cover and correct slides and settlement problems.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: If this administrative regulation is not implemented, the surface owner would be less able to express his concerns over the surface use and reclamation of the area proposed to be disturbed. Erosion could result and revegetation might not be performed.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This proposed administrative regulation neither conflicts with, overlaps, nor duplicates any statute, administrative regulation or government policy.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: The enactment of this proposed administrative regulation will require periodic retraining of office staff and division field inspectors in order for them to be updated on new technology and changes in well site reclamation and the drilling industry, generally.

(11) TIERING: Was tiering applied: Yes. Tiering was applied in this proposed administrative regulation. Operators are required to satisfy the requirements of this administrative regulation when their proposed drilling activity is on lands where the minerals are severed,

producing oil and gas wells, for which production information is statutorily required. Persons or operators wishing to invest in or drill wells in the Commonwealth will be aided by production information which shows area trends.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented, to the extent available from the public comments received:

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented to the extent available from the public comments received: Any direct costs associated with this proposal are attributable to the requirement that an operator having producing oil and gas wells in the Commonwealth file with this agency production information for quantities of oil and gas produced from his wells. It is anticipated that the in-house cost for a small operator to provide this information is less than \$100 per year. However, a larger operator having several thousand wells will have significantly higher costs for providing this information.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: This administrative regulation requires an operator to annually file production information on his producing wells on the form required by this agency. Since operators are currently statutorily required to file that information, this administrative regulation will not require any additional costs to the operator; it simply prescribes the form used to file the production information with this agency.

2. Second and subsequent year: Compliance, reporting and paperwork requirements are anticipated to be the same in succeeding years, since the reporting requirement is an annual one.

(3) Effects on the promulgating administrative body: This proposed administrative regulation will require this agency to record the information required from each operator on forms to be made available to the public. This will be accomplished by entry into a data system already in place.

(a) Direct or indirect costs or savings: The costs for administering this administrative regulation will not increase over those costs already budgeted for administration of the production reporting provisions of KRS 353.205.

1. First year: None anticipated, since production information is already being received and Form ED-17 provides clarification of the production reporting required in KRS 353.550(1). This administrative regulation requires the identification of producing leases, to be submitted on the form on which production is required by the department to be reported.

2. Continuing costs or savings: It is anticipated that second year costs will be the same as the first.

3. Additional factors increasing or decreasing costs: There are none anticipated at this time.

(b) Reporting and paperwork requirements: Since this agency is already requiring the filing of production information, this proposed administrative regulation will not increase costs. It merely provides clarification for the filing of that information by means of a form created in the administrative regulation.

(4) Assessment of anticipated effect on state and local revenues: It is anticipated this administrative regulation will have minimal effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The costs for the administration of production reporting is provided for by legislative budget.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographic area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: This administrative regulation is necessary in order to create the form used to file production data.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: This administrative regulation will allow production information to be recorded in a more useful manner and may promote more drilling or exploration, thereby increasing production and benefiting the local economy. It will also be of assistance to the investor wishing to inquire as to a well's or region's production history.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This proposed administrative regulation neither conflicts with, overlaps, nor duplicates any statute, administrative regulation or government policy.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions? There is no conflict.

(10) Any additional information or comments: None

(11) TIERING: Was tiering applied? Yes. Tiering was applied to this administrative regulation to allow electronic filing of production data in lieu of submitting Form ED-17. Electronic filing will reduce the number of copies an operator is required to make and he may have the production data for many wells submitted on a single disk or submitted as an electronic mail attachment.

**PUBLIC PROTECTION AND REGULATION CABINET
Public Service Commission
(New Administrative Regulation)**

807 KAR 5:063. Filing requirements and procedures for proposals to construct telecommunications antenna towers.

RELATES TO: KRS 278.650

STATUTORY AUTHORITY: KRS 278.020(1), 278.040(3), 278.650

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) provides that the commission may adopt, in keeping with KRS Chapter 13A, reasonable administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.020(1) authorizes the commission to issue certificates of public convenience and necessity for utility construction. KRS 278.650 prescribes procedures to be followed for proposals to construct antenna towers in a county containing a city of the first class which differ from those to be followed for proposals to construct antenna towers outside a county containing a city of the first class. This administrative regulation prescribes filing requirements and procedures to be followed in applying for a certificate of public convenience and necessity to construct a telecommunications antenna tower.

Section 1. A utility proposing to construct a telecommunications antenna tower in a county which does not contain a city of the first class shall file:

(1) All documents and information required by 807 KAR 5:001, Sections 8 and 9(2)(a), (b), (c), (d) and (g);

(2) Copies of the utility's applications to the Federal Aviation Administration and Kentucky Airport Zoning Commission and written authorizations from these agencies as soon as they are available;

(3) Copies of the utility's application to, and authorization from, the Federal Communications Commission, if applicable;

(4) A geotechnical investigation report that includes boring logs,

factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Little, if any, increase in the cost of compliance, reporting, and paperwork requirements is expected. Utilities proposing to construct wireless telecommunications facilities routinely notify nearby residents. Moreover, any increase in notification expense will be, at least in part, offset by eliminating the filing of cost information. Such information is not necessary since the commission no longer regulates cellular rates.

2. Second and subsequent years: See answer to (2)(c)(1) above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings to the commission are expected. Regulation of tower siting will continue to be handled in the ordinary course of business.

2. Continuing costs or savings: See answer to (3)(a)(1) above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No effect on state or local revenues is anticipated.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No additional revenue is required to enforce or implement this regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. However, no economic effect on any geographical area is expected.

(b) Kentucky: No public comments were received. However, no economic effect on Kentucky is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods have been suggested. The commission believes the regulation as proposed is the best method for insuring that wireless telecommunications facilities construction is appropriately monitored pursuant to the requirements of KRS 278.650.

(8) Assessment of expected benefits: Information and documents submitted pursuant to the proposed regulation will assist the commission in determining, in areas outside a county containing a city of the first class, whether construction on the proposed site is appropriate in light of local concerns. In regard to construction proposed in a county containing a city of the first class, the regulation will ensure that the commission is informed of the local planning unit's determination as to the suitability of the proposed site and, if the planning unit rejects a proposed construction, whether commission override is warranted pursuant to KRS 278.650.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict, overlap, or duplication exists.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering has not been used because the size of the utility constructing a tower is not relevant to the considerations involved in determining whether construction at a proposed site is appropriate.

CABINET FOR HEALTH SERVICES
Department For Medicaid Services
Division of Administration and Development
(New Administrative Regulation)

907 KAR 1:405. Repeal of 907 KAR 1:404.

RELATES TO: KRS 13A.310, 205.520

STATUTORY AUTHORITY: KRS 13A.310, 194.050, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirements that may be imposed, or opportunity presented, by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This administrative regulation acts specifically to repeal 907 KAR 1:404 which is no longer needed.

Section 1. 907 KAR 1:404, Incorporation by reference of the independent laboratory services manual, is hereby repealed.

JOHN H. MORSE, Commissioner, Secretary

APPROVED BY AGENCY: March 10, 1997

FILED WITH LRC: March 12, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1997 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 1997, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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: Mae B. Lewis, Administrative Specialist Principal, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4th Floor - West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick, Trish Howard, or Anita Moore

(1) Type and number of entities affected: All Medicaid enrolled Independent laboratories (about 300).

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments have been received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments have been received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of March 11, 1997

The March meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, March 11, 1997, at 10 a.m. in Room 149 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the February 3, 1997 meeting were approved.

Present were:

Members: Representative John Arnold, Chairman, Senators Nick Kafoglis, Joey Pendleton; Representatives Jimmy Lee, James Bruce, Woody Allen.

LRC Staff: Greg Karambellas, Steve Lynn, Susan Wunderlich, Angela Phillips, Donna Valencia, Susan Eastman.

Guests: Representative Dottie Jean Sims; C. D. Batson, Scott Porter, Matthew L. Mooney, Office of the Attorney General; Richard Casey, Kristy M. Green, KHEAA; Hanson Williams, Personnel Board; Donald R. Speer, Karen Powell, Finance and Administration Cabinet; Bill Schmidt, C. Lloyd Vest II, Board of Medical Licensure; Nathan Goldman, Board of Nursing; Tom Young, Mark Marraccini, Tom Bennett, Jim Owens, Department of Fish and Wildlife Resources; Gene C. Royalty, Mark Farrow, Department of Agriculture; Lori Flannery, Phyllis Bruning, Robin Fields Kinney, Floyd C. Taylor, Economic Development; Roy A. Massey, Natural Resources and Environmental Protection Cabinet; Brenda Priestly, Tamely Biggs, Department of Corrections; Lt. Linda B. Smith, Jean Ann Gabbard, LTC. John B. Lile, Kentucky State Police; Jim Townes, William O'Banion, Duane C. Dringenbury, Adele Dickerson, Brenda Parker, Michael Lawrence, Sharon Surbeck, John Walker, Timothy L. Veno, John Morse, Crit Luallen, Skipper Martin, Sandra T. Conner, Lorraine Dumas, Larry McCarthy, Eric Friedlander, Cookie Whitehouse, Cabinets for Health Services and Families and Children; Laura Knoth, Sam Crawford, Kentucky Farm Bureau; John Brazel, Kentucky Chamber of Commerce; Ted Bradshaw, IIAK; Larry Maggard, AIK; Jim Carlross, Kentucky Academy Eye Surgeon; Masten Childers II, Attorney; Robyn Young, Disiree Owen, Paducah Area Chamber of Commerce; Dennis Boyd, U of L Med School; Gordon Rosenberry, Schering Corporation; Mike Porter, Kentucky Dental Association; Alexander Montgomery, Appalachian Regional Healthcare; Roy F. Gividen; Brett Leichhardt, Patrick Padgett, Kentucky Medical Association; Carl Breeding, BCDC; Kevin Payton, Kentucky Association of Regional Programs; Jan Gould, Kentucky Retail Federation; David Greene, Region V Healthcare Select; Mike Wooden, Wooden and Associates; Susan Swinford, Kentucky Association of Hospices; Stephen A. Coleman, Agriculture Water Quality Authority.

Representative Bruce called the meeting to order. The Subcommittee approved the minutes of the February, 1997 meeting. Representative Bruce stated that the first order of business was the election of a chairman. Senator Pendleton nominated Representative Arnold. Representative Lee seconded the motion. The members unanimously elected Representative Arnold chairman of the Administrative Regulation Review Subcommittee.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Kentucky Board of Medical Licensure

201 KAR 9:021. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees. Bill Schmidt, Executive Director, Lloyd Vest, General Counsel, appeared before the Subcommittee.

Various sections of this administrative regulation were amended to: (1) comply with the drafting and format requirements of KRS

Chapter 13A; (2) clarify requirements relating to training and education; and (3) delete language in Section 8(2) that established a lesser period of postgraduate training than required by KRS 311.571(2)(f).

201 KAR 9:141. Denial, probation, revocation and suspension of certificate. The NECESSITY, FUNCTION, AND CONFORMITY paragraph of this administrative regulation was amended to delete the reference to the adoption of rules.

201 KAR 9:310. Continuing medical education. Various sections of this administrative regulation were amended to: (1) conform to the drafting and format requirements of KRS Chapter 13A; (2) clearly establish requirements relating to continuing medical education, hours required, and reporting format; and (3) incorporate a required form.

Board of Nursing

201 KAR 20:220. Provider approval. Nathan Goldman, General Counsel, appeared before the Subcommittee. This administrative regulation was amended to comply with the drafting and format requirements of KRS Chapter 13A.

201 KAR 20:230. Renewal of licenses. In response to a question by Representative Lee, Subcommittee staff stated that: (1) a citation of the Executive Order reorganizing the Cabinet for Human Resources was not required; and (2) this administrative regulation had been amended to insert the successor cabinet, the Cabinet for Health Services, with jurisdiction over HIV/AIDS education course approval. This administrative regulation was amended to comply with the drafting and format requirements of KRS Chapter 13A.

201 KAR 20:370. Applications for licensure and registration. This administrative regulation was amended to: (1) comply with the drafting and format requirements of KRS Chapter 13A; and (2) clearly establish the grounds for ineligibility for examination for specified offenses.

The following two administrative regulations related to the Linked Deposit Investment Program that is administered jointly by the Department of Agriculture and the Cabinet for Economic Development.

Department of Agriculture: Linked Deposits

302 KAR 3:010 & E. Linked Deposit Investment Program. (Emergency Expired 1/18/97)

Cabinet for Economic Development: Linked Deposit Investment Program

307 KAR 5:010 & E. Linked Deposit Investment Program. (Emergency Expired 1/18/97)

Mark Farrow, Chief of Staff and General Counsel, and Gene Royalty, in charge of marketing, represented the Department of Agriculture. Lori Flannery, Commissioner, Financial Incentives, represented the Cabinet for Economic Development.

Mr. Royalty stated that the: (1) Cabinet administered the Small Business Program; (2) the Program had not had a great deal of success in agriculture, primarily because the \$50,000 cap was a limitation to farmers seeking funds; and (3) four loans were being processed under the provisions of these administrative regulations.

Ms. Flannery stated that the purpose of these administrative regulations was to implement the Linked Deposit Investment Program; the general Assembly had transferred the program from the Treasury to the Department of Agriculture and the Cabinet for Economic Development; agribusiness loans are administered by the Department; the Cabinet administers the small-business loans.

These administrative regulations were amended to: (1) comply with the drafting and format requirements of KRS Chapter 13A; and (2) clearly establish requirements and conditions.

ADMINISTRATIVE REGISTER - 3665

Subcommittee make a definitions administrative regulation unnecessary.

The following administrative regulations were deferred to the next Subcommittee meeting upon agreement by the Subcommittee and the promulgating agency:

Legislative Research Commission: Capital Planning Advisory Board

1 KAR 6:020. Policies and procedures.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:001. Definitions of terms used in 401 KAR Chapter 5.

401 KAR 5:005. Permits to construct, modify, or operate a facility.

401 KAR 5:006. Wastewater planning requirements for regional areas.

Public Water Supply

401 KAR 8:010. Definitions for 401 KAR Chapter 8.

401 KAR 8:060. Variances and exemptions.

401 KAR 8:070. Public notification.

401 KAR 8:100. Design, construction and approval of facilities.

401 KAR 8:150. Disinfection and filtration.

401 KAR 8:200. Microbiological monitoring.

401 KAR 8:250. Inorganic chemical sampling, analytical techniques and maximum contaminant levels.

401 KAR 8:300. Lead and copper.

401 KAR 8:350. Corrosivity monitoring.

401 KAR 8:400. Synthetic organic chemicals.

401 KAR 8:420. Volatile organic chemicals.

401 KAR 8:440. Special testing for unregulated inorganic and synthetic organic contaminants.

401 KAR 8:500. Disinfection by-products.

401 KAR 8:600. Secondary standards.

401 KAR 8:700. Bottled water.

Justice Cabinet: Kentucky Department of Corrections: Office of the Secretary

501 KAR 6:130. Western Kentucky Correctional Complex.

Workforce Development Cabinet: State Board for Adult and Technical Education: Department for Adult and Technical Education: Unclassified Personnel Administrative Regulations

780 KAR 6:060. Attendance, compensatory time, and leave.

Department of Vocational Rehabilitation: Administration

781 KAR 1:010. Department of Vocational Rehabilitation appeal procedures.

Department for the Blind

782 KAR 1:040. Appeal procedures.

Cabinet for Health Services: Long-Term Care

900 KAR 2:060. Hearings concerning transfer and discharge rights.

Certificate of Need

900 KAR 6:015E. Certificate of need matters.

Department for Health Services: State Health Plan

902 KAR 17:035E. State health plan for facilities and services.

Health Services and Facilities

902 KAR 20:016. Hospitals; operations and services.

Hazardous Substances

902 KAR 47:080E. Training and certification requirements for individuals who perform lead-hazard detection or lead-hazard abatement.

902 KAR 47:090E. Accreditation of training programs and providers of educational programs for individuals who perform lead-hazard detection and abatement.

902 KAR 47:100E. Permit fees, permit requirements and procedures, and standards for performing lead-hazard detection and abatement.

Cabinet for Families and Children: Department for Social Insurance: Division of Management & Development: Public Assistance

904 KAR 2:410E. Child support collection and distribution.

Food Stamp Program

904 KAR 3:025E. Technical requirements.

Department for Social Services: Child Welfare

905 KAR 1:180E. DSS policy and procedures manual.

Day Care

905 KAR 2:140E. Child day care programs.

Cabinet for Health Services: Department for Medicaid Services: Division of Administration and Development

907 KAR 1:013E. Payments for hospital inpatient services.

907 KAR 1:019E. Pharmacy services.

907 KAR 1:673E. Claims processing.

OTHER BUSINESS

1. Commissioner Tom Bennett, Department of Fish and Wildlife Resources

Report on the Long-Term Funding Task Force (HCR 76)

Report on Long-Term Funding Task Force. Tom Bennett, Commissioner, Tom Young, Deputy Commissioner, and Jim Owens, Budget Analyst, represented the Department.

Mr. Bennett stated that: (1) in 1996, the General Assembly determined that: (a) people with a Railroad disability would be permitted to hunt and fish for free in Kentucky; (b) while this determination did not directly affect the Department revenues, it increased the number of persons permitted to hunt and fish for free to over 100,000 people in Kentucky, about 1 in 7 persons; and (c) this resulted in a loss of 15% of potential Department revenue; (2) by the passage of House Concurrent Resolution 76, the General Assembly created a task force, with six (6) legislators and ten (10) other persons on it, to study the long term funding of fish and wildlife and nature related recreation in Kentucky, because it realized that, in the long term a reduction in revenue would result because: (a) Kentucky's senior citizen population is getting larger; and (b) the number and effect of all exemptions had increased; (3) Senator Pendleton is the co-chair of the task force, and Representatives Royce Adams, Horlander, Will Scott, Dwight Butler, and Senator Borders are members of the task force; (4) The Task Force has had 6 meetings.

Senator Pendleton: (1) commended Commissioner Bennett and his people for their work on the Task Force because they had seen the future potential for a crisis in wildlife funding and the need to take action; (2) stated that: (a) the Commissioner had taken the Task Force across the State to hold meetings and hearings that permitted people to participate and express any concerns or ideas that they had; (b) these meetings would help meet the needs of the Fish and Wildlife Department in the 21st century; and (c) The Department was a \$3 billion dollar industry that supported about 52,000 jobs; (3) commended the Commission for the fine job it had done; and (4) stated that: (a) people want to make sure that Fish and Wildlife could continue this; (b) the Task Force viewed the number of free licenses not only as an issue of a free licenses, but also as one relating to a loss of federal dollars that the State was losing because of the free licenses; (c) at some point, the General Assembly would have to consider how the state can overcome the loss of about \$650,000 in federal matching funds due to the exemptions granted 100,000 people from licensure; (d) one of the big questions was who should pay for wildlife conservation in Kentucky; (e) while the polls show that about 50 % of the people believe that all of citizens should pay through general tax revenues, in reality, the program is paid for only

program was a 19 year program that could not be confined or accomplished within a 2 year biennial budget cycle; (4) the state had to commit today for the future; (5) people who are in farming and connected with the wood products industry know that these programs are 5, 10, and 15 year programs; (5) growing hardwoods in Kentucky is a 30 year program; and (6) the reason the Department was required to project revenues is that, as with these activities and programs, the activities for which the Department is responsible also required it to that far ahead.

With regard to budget and revenue issues, Mr. Bennett stated that: (1) he had included with the handout a chart of revenues and expenditures to show when the Department believed the crisis would start; (2) the Department believed that serious budget problems would occur some time after the turn of the century; (3) while he was aware that the General Assembly's plate was full, he knew a number of legislators were well versed in the problems facing the Department relating to funding of the Department and its effect on the General Fund; (4) the Department's problem was a little more complicated because it was directly affected by the aging of the population of Kentucky; (5) a graph in the handout showed the projected population of Kentuckians 18 to 64; (6) this group were the people who paid salaries, bought boats, and went to the water on Sunday afternoon; (7) this age group was: (a) the primary license buying age group in Kentucky; and (b) was projected to increase slightly until about the year 2010 when it would crash with the result that license buying persons in Kentucky will; (8) as a baby boomer, when he retired, he would become a part of the largest group of senior citizens ever to come into Kentucky; (9) in the handout, the Department had made a projection that, around the year 2010, the senior citizen population: (a) will explode; and (b) more and more people will be hunting and fishing for free; (10) with regard to those exempted from license fees because of disability, information from the Social Security Administration showed that the numbers of disabled persons will increase over the next 10 years; (11) the Task Force planned to conduct: (a) between 5 and 6 more meetings across the state; and (b) 1 additional meeting in the State; and (12) the Department would sponsor a number of public meetings.

Mr. Bennett stated that the Department: (1) did not: (a) have a solution; or (b) know what the Task Force would recommend; and (2) would accommodate Subcommittee members who: (a) had particular areas of concern; and (b) would like the Department to come into their area. Mr. Bennett stated that: (1) the Department is aware of action taken by other states; (2) Missouri and Arkansas were the benchmarks by which fish and wildlife agencies across the country are gauging themselves by; (3) fish and wildlife was not only an important part of Kentucky life, but was also: (a) part of our heritage and an existing industry that meant a lot of jobs, whether it involved: 1. working in a marina; 2. guiding someone on a fishing or hunting trip; or 3. selling sporting goods; (b) big business in Kentucky, and constituted about half of the outdoor recreation in Kentucky; (4) the Department was trying to address problems before: (a) a crisis developed; and (b) the Department was required to curtail some of the state's very important programs; (5) Kentucky: (a) makes a higher commitment in the education of our young people with regard to conservation than any state in America; (b) was the only state in America with: 1. 19 full-time conservation educators working in the school systems; and 2. three conservation camps for kids in the Summer; (6) that Kentuckians really care about fish and wildlife, and nature related recreation was shown by the fact that the Department's TV program: (a) continued to enjoy broad-based success; and (b) was believed to be KET's number one program. Mr. Bennett stated that the schedule to be followed was to hold the public meetings, and report to the Legislative Research Commission with an official report from the Task Force on October 1st.

In response to questions by Representative Allen, Mr. Bennett stated that: (1) annual license sales generated about \$16 million per year for the Department; (2) about 50% of the money was derived

from hunting licenses, and 50% from fishing licenses; (3) annually, the federal revenue returning to Kentucky for the upcoming year will be about: (a) \$4 million from fisheries; and \$2.8 million from hunting; (4) federal revenue returning to Kentucky was based on a 75-25 match; (5) the Department had to put 25 cents on the dollar as those funds are expended; and (6) Of the \$16 million derived each year from license sales: (a) \$3.6 million is derived directly from deer permits and (b) turkey permit revenue was about \$600,000.

Representative Allen stated that: (1) he had seen a decline in hunting in his area; (2) there were a lot of people who just liked to watch game now; (3) there were several species that had overpopulated, such as opossum, skunk, and raccoon, which upset the balance of small game; (4) the Department might take a look at promoting small game hunting of rabbit, squirrel, and quail hunting, with the junior hunting license people; (5) a lot of people in his area believed that the Department was putting too much emphasis on turkey and deer, which was understandable because it is the meat of the program and where the finances come from; (6) if we could get these people interested in hunting small game and they became avid hunters, sooner or later, they would go after a deer or turkey; and (7) an approach the Department might want to look at was to encourage the young hunter into hunting something different.

In response to Representative Allen's comments, Mr. Bennett stated that: (1) when the Commission tried the youth deer hunting day 2 years ago, it was somewhat anxious about taking a day away from the adults; (2) when it followed it the next year with a deer hunting weekend for kids 16 and under, the number of participants increased by 11%; (3) at the Commission meeting last Friday, the Commission recommended administrative regulations for next hunting season that: (a) will be brought before the Subcommittee; and (b) would increase the: 1. squirrel season by 30 days; and 2. opportunity for young people to go out and hunt.

Representative Allen stated that: (1) there was a lot of concern over quail hunting in his area, with some people thinking that turkey are destroying the quail nest; (2) although he had seen some destruction, he had some doubt that it was attributable to turkeys alone; (3) nevertheless these people also needed help; (4) when you get a quail hunter out there, soon, he could become a turkey hunter or a deer hunter also; (5) all hunting related and rated together; and (6) the Department should not end the emphasis on small game, if it expected an increase in the larger game field.

Mr. Bennett stated that: (1) for the most part, the reason that wild turkey had done so well was because the: (a) landscape of Kentucky was favorable to turkeys; and (b) habitat conditions for quail had declined all over the state; (2) probably the best quail habitat was Eastern Kentucky with the change in mining offering opportunities for new habitats; and (3) it was a big problem to maintain good small numbers of quail.

Chairman Arnold stated that: (1) the quail in Union County were very limited now; (2) a lot of hunters believed that the coyote and the turkey were the reason for that; and (3) he hoped that there was some sort of program on the horizon to try to restore a population of quail in the western part of the state.

Mr. Bennett stated that: (1) the Department did not have a major program on the drawing board; (2) had been timid about trying to establish that kind of a new program without a funding source to actually pay for it; (3) there was some concern about predator populations in western Kentucky which historically had been the state's premiere quail and rabbit hunting area; (4) in his lifetime, in the western part of the state: (a) 6 million acres of farmland had been taken out of production; and (b) the size of the average farm in Kentucky had doubled from about 80 to almost 160 acres; and (4) this indicated a major shift in farming techniques to the larger type farms, the more production oriented agriculture that created less edge and less cover for the quail.

In response to questions by Chairman Arnold, Mr. Bennett stated that: (1) fescue provided very little food value or cover for the quail;

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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 LABOR AND INDUSTRY Meeting of February 25, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Labor and Industry during its meeting of February 25, 1997, having been referred to the Committee on February 10, 1997, pursuant to KRS 13A.290(6):

803 KAR 25:034E

803 KAR 25:036E

787 KAR 1:320

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): none

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: none

The following administrative regulations were deferred pursuant to KRS 13A.300: none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 25, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON TRANSPORTATION Meeting of March 4, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Transportation during its meeting of March 4, 1997, having been referred to the Committee on February 10, 1997, pursuant to KRS 13A.290(6):

600 KAR 2:020

600 KAR 2:030

601 KAR 12:020

601 KAR 12:041

601 KAR 13:070

601 KAR 13:110

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

601 KAR 13:110 was amended to read as follows: On page 4, line 9, Section 3.(2)(e) by inserting the words and figure "Two hundred and fifty dollars (\$250)" in lieu of the words and figure "Five hundred dollar (\$500)"; and

On page 4, line 14, Section 3.(3) by inserting the date "February 28, 1997" in lieu of the date "December 31, 1996".

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced

administrative regulations is reflected in the minutes of the March 4, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Meeting of February 26, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on State Government during its meeting of February 26, 1997, having been referred to the Committee on February 10, 1997, pursuant to KRS 13A.290(6): 105 KAR 1:200

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: 105 KAR 1:200

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 26, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON EDUCATION Meeting of March 6, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Education during its meeting of March 6, 1997, having been referred to the Committee on February 10, 1997, pursuant to KRS 13A.290(6):

11 KAR 13:010 (&E)

13 KAR 2:070

106 KAR 3:010 (&E)

704 KAR 20:305 (&E)

704 KAR 20:700

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: none

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parent would not be in arrearage under this definition. Mr. Veno said he understood.

Representative Hoover made a motion and was seconded by Representative Mason that 904 KAR 2:001, 904 KAR 2:380, 904 KAR 2:390, and 904 KAR 2:400, all relating to child support, be amended where applicable to include not only non-custodial parent as having a duty but also the obligor (meaning to add the phrase "or obligor" after the phrase "non custodial parent"). After a voice vote, the motion was carried.

The following administrative regulations were deferred pursuant to KRS 13A.300: NONE

The remaining administrative regulations were adopted as submitted.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 19, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS Meeting of March 14, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Licensing and Occupations during its meeting of March 14, 1997, having been deferred at the Committee's February 14, 1997 meeting, pursuant to KRS 13A.290(6):

811 KAR 1:020
811 KAR 1026
811 KAR 1:035
811 KAR 1:120
201 KAR 12:082
201 KAR 12: 200

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

811 KAR 1:020-On page 1, line 6 of the proposed amendment, after "KRS", delete "230.630(3), (4), (7)" and insert "230.260"; and on page 5, line 7, after the word "tattooed", insert the words "or freeze branded".

811 KAR 1:035- On page 1, line 6, after the "KRS", delete "230.630(3), (4), (7)" and insert "230.260"; On page 3, line 19, after the word "the", insert "rating"; On page 4, line 12, after the word "any", insert "owner" and delete the word "person"; On page 5, line 22, after the word "the", insert "previous" and delete the word "original"; On page 7, line 14, after "(b)", insert "If" and delete "Where"; On page 7, line 19, after the word "claim", delete the quotation mark; On page 8, line 3, after the word "the", insert "previous" and delete "original"; and On page 8, line 14, after "20", insert "%".

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: 201 KAR 12:200

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 14, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

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CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates J2

The Locator Index lists all administrative regulations published in VOLUME 23 of the Administrative Register from July, 1996 through June, 1997. It also lists the page number on which each administrative regulation is published, the effective date of the administrative regulation after it has completed the review process, and other action which may affect the administrative regulation. NOTE: The administrative regulations listed under VOLUME 22 are those administrative regulations that were originally published in the Volume 22 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1996 bound Volumes were published.

KRS Index J15

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 23 of the Administrative Register.

Subject Index J30

The Subject Index is a general index of administrative regulations published in VOLUME 23 of the Administrative Register, and is mainly broken down by agency.

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LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
201 KAR 1:045E	58	5-22-96	502 KAR 45:150E	1353	8-14-96
Replaced		9-13-96	Expired		2-18-97
201 KAR 1:130E	59	5-22-96	502 KAR 60:010E	1354	8-14-96
Replaced		9-13-96	Withdrawn		9-11-96
201 KAR 10:050E			503 KAR 6:010E	1355	8-14-96
Replaced	170	9-11-96	Expired		2-18-97
201 KAR 11:190E	1877	10-14-96	503 KAR 6:020E	1357	8-14-96
201 KAR 12:082E	321	7-1-96	Replaced	2717	1-9-97
Expired		1-18-97	503 KAR 6:030E	1358	8-14-96
201 KAR 12:200E	324	7-1-96	Replaced	2718	1-9-97
Expired		1-18-97	503 KAR 6:040E	1359	8-14-96
201 KAR 20:390E	1541	8-16-96	Expired		2-18-97
Replaced	3006	2-19-97	503 KAR 6:050E	1360	8-14-96
301 KAR 2:221E	1880	10-2-96	Replaced	2718	1-9-97
Replaced	2842	3-12-97	503 KAR 6:060E	1361	8-14-96
301 KAR 2:222E	1883	10-2-96	Replaced	2719	1-9-97
Replaced	2844	3-12-97	503 KAR 6:070E	1362	8-14-96
301 KAR 2:224E	1887	10-2-96	Expired		2-18-97
Replaced	2848	3-12-97	503 KAR 6:080E	1363	8-14-96
301 KAR 2:225E	1544	8-16-96	Replaced	2719	1-9-97
Replaced	2972	2-12-97	503 KAR 6:090E	1365	8-14-96
301 KAR 3:022E	3535	2-21-97	Replaced	2720	1-9-97
Withdrawn		3-17-97	503 KAR 6:100E	1366	8-14-96
302 KAR 3:010E	325	7-15-96	Expired		2-18-97
Expired		1-18-97	503 KAR 6:110E	1367	8-14-96
302 KAR 20:110E	2439	11-6-96	Replaced	2720	1-9-97
302 KAR 20:120E	2440	11-6-96	505 KAR 1:020E	3208	2-14-97
302 KAR 78:020E	61	6-5-96	603 KAR 5:320E	1546	9-3-96
Replaced	1934	11-11-96	Replaced	2641	2-10-97
307 KAR 5:010E	327	7-15-96	603 KAR 5:330E	366	7-12-96
Expired		1-18-97	Replaced	2529	1-9-97
401 KAR 8:030E	1888	10-7-96	701 KAR 5:020E	80	6-14-96
401 KAR 50:035E	62	6-14-96	Replaced	2464	12-5-96
Expired		1-17-97	701 KAR 5:051E	81	6-14-96
415 KAR 1:050E	328	7-3-96	Expired		10-14-96
Expired		2-17-97	701 KAR 5:055E	82	6-14-96
415 KAR 1:060E	330	7-3-96	Replaced	2465	12-5-96
Expired		2-17-97	701 KAR 5:086E	84	6-14-96
415 KAR 1:070E	333	7-3-96	Expired		10-15-96
Expired		2-17-97	701 KAR 5:090E	85	6-14-96
415 KAR 1:080E	336	7-3-96	Replaced	2466	12-5-96
Expired		2-17-97	702 KAR 1:080E	86	6-14-96
415 KAR 1:090E	340	7-3-96	Replaced	2467	12-5-96
Expired		2-17-97	702 KAR 7:055E	1368	8-12-96
415 KAR 1:100E	343	7-3-96	Expired		2-18-97
Expired		2-17-97	702 KAR 7:065E	87	6-14-96
415 KAR 1:110E	344	7-3-96	Replaced	1433	12-5-96
Expired		2-17-97	702 KAR 7:125E	1369	8-12-96
415 KAR 1:114E	348	7-3-96	Replaced	2722	1-9-97
Expired		2-17-97	703 KAR 3:060E	1372	8-12-96
415 KAR 1:120E	352	7-3-96	Replaced	2724	1-9-97
Expired		2-17-97	703 KAR 3:205E	89	6-14-96
415 KAR 1:125E	359	7-3-96	Replaced	2472	12-5-96
Expired		2-17-97	703 KAR 4:010E	1376	8-12-96
501 KAR 8:010E	3536	3-14-97	Replaced	2728	2-6-97
502 KAR 45:005E	1350	8-14-96	703 KAR 4:090E	1379	8-12-96
Expired		2-18-97	Replaced	2731	1-9-97
502 KAR 45:035E	1351	8-14-96	704 KAR 20:305E	367	6-28-96
Expired		2-18-97	Expired		1-18-97
502 KAR 45:045E	1351	8-14-96	704 KAR 20:475E	370	6-28-96
502 KAR 45:055E	1897	10-15-96	Replaced	2356	1-9-97
Expired		2-18-97	707 KAR 1:180E	91	6-14-96
502 KAR 45:075E	1352	8-14-96	Replaced	2474	12-5-95
Expired		2-18-97			

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LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
ORDINARY ADMINISTRATIVE REGULATIONS:			13 KAR 2:060		
			Amended	164	
1 KAR 6:020			As Amended	1389	9-5-96
Amended	2833		13 KAR 2:070	1049	
2 KAR 2:010			Expired		9-13-96
Amended	1603		Resubmitted	2892	3-6-97
As Amended	2458	12-13-96	40 KAR 1:040	206	
11 KAR 4:030			Withdrawn		10-22-96
Amended	3066		40 KAR 1:050	207	
11 KAR 5:130			Withdrawn		10-22-96
Amended	158		40 KAR 1:060	208	
As Amended	1387	9-5-96	Withdrawn		10-22-96
11 KAR 8:030			40 KAR 1:070	209	
Amended	159		Withdrawn		10-22-96
As Amended	1387	9-5-96	40 KAR 3:010		
11 KAR 12:050			Amended	3604	
Amended	161		40 KAR 3:020	2894	2-19-97
As Amended	1389	9-5-96	101 KAR 1:325		
11 KAR 13:010	2636		Amended	3070	
As Amended	3310	3-6-97	101 KAR 1:365		
12 KAR 2:006			Amended	2193	
Amended	1604		As Amended	2711	1-13-97
As Amended	2703	1-10-97	103 KAR 16:200	3645	
12 KAR 2:011			103 KAR 18:050		
Amended	1604		Amended	461	
As Amended	2703	1-10-97	As Amended	1578	10-14-96
12 KAR 2:016			104 KAR 1:020		
Amended	1606		Amended	166	
As Amended	2704	1-10-97	As Amended	1391	9-11-96
12 KAR 2:017	1805		105 KAR 1:200		
As Amended	2705	1-10-97	Amended	2834	
12 KAR 2:018	1806		As Amended	3311	
As Amended	2706	1-10-97	As Amended	3554	2-26-97
12 KAR 2:021			106 KAR 3:010	2896	3-6-97
Amended	1607		109 KAR 7:020	2638	
As Amended	2709	1-10-97	Amended	3005	
12 KAR 2:026			As Amended	3312	3-12-97
Amended	1608		200 KAR 5:021		
As Amended	2710	1-10-97	Amended	1403	11-11-96
12 KAR 2:036			Amended	3072	
Amended	1609		200 KAR 5:025	1467	
As Amended	2711	1-10-97	Amended	1955	
12 KAR 2:041			As Amended	2458	12-13-96
Amended	1610	1-10-97	200 KAR 5:302	1468	
12 KAR 2:046			As Amended	1924	11-11-96
Amended	1611	1-10-97	200 KAR 5:304		
12 KAR 2:051			Amended	1401	11-11-96
Amended	1612	1-10-97	200 KAR 5:306		
12 KAR 2:061			Amended	1405	
Amended	1612	1-10-97	As Amended	1925	11-11-96
12 KAR 2:066	1809	1-10-97	200 KAR 5:325	1470	11-11-96
12 KAR 3:012			200 KAR 15:010		
Amended	1613	1-10-97	Amended	462	
12 KAR 3:017			As Amended	1927	10-24-96
Amended	1615	1-10-97	200 KAR 22:130	210	9-11-96
12 KAR 3:022			201 KAR 1:040		
Amended	1616	1-10-97	Amended	169	
12 KAR 3:027			As Amended	1393	9-11-96
Amended	1617	1-10-97	201 KAR 1:045		
12 KAR 3:037			Amended	464	
Amended	1618	1-10-97	As Amended	1578	9-13-96
12 KAR 3:042	1810	1-10-97	201 KAR 1:130		
13 KAR 2:045			Amended	465	
Amended	3380		As Amended	1579	9-13-96

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LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
307 KAR 5:010	2900		401 KAR 31:060		
Amended	3368		Amended	530	
As Amended	3562		Amended	1986	3-12-97
401 KAR 5:001			401 KAR 31:070		
Amended	1621		Amended	533	3-12-97
Amended	2755		401 KAR 31:110		
401 KAR 5:005			Amended	536	3-12-97
Amended	1633		401 KAR 31:120		
Amended	2766		Amended	538	3-12-97
401 KAR 5:006	1814		401 KAR 31:160		
Amended	2780		Amended	546	3-12-97
401 KAR 8:010			401 KAR 31:170		
Amended	2538		Amended	550	3-12-97
401 KAR 8:030			401 KAR 32:005	1067	
Amended	3079		Amended	1989	3-12-97
401 KAR 8:060			401 KAR 32:010		
Amended	2543		Amended	559	3-12-97
401 KAR 8:070			401 KAR 32:020		
Amended	2548		Amended	562	3-12-97
401 KAR 8:100			401 KAR 32:030		
Amended	2560		Amended	564	
401 KAR 8:150			As Amended	2973	3-12-97
Amended	2563		401 KAR 32:040		
401 KAR 8:200			Amended	567	3-12-97
Amended	2568		401 KAR 32:050		
401 KAR 8:250			Amended	569	3-12-97
Amended	2573		401 KAR 32:100		
401 KAR 8:300			Amended	573	3-12-97
Amended	2579		401 KAR 33:005	1080	
401 KAR 8:350			Amended	2003	3-12-97
Amended	2593		401 KAR 33:010		
401 KAR 8:400			Amended	577	3-12-97
Amended	2595		401 KAR 34:005	1093	
401 KAR 8:420			Amended	2016	3-12-97
Amended	2600		401 KAR 34:010		
401 KAR 8:440			Amended	579	3-12-97
Amended	2606		401 KAR 34:020		
401 KAR 8:500			Amended	581	3-12-97
Amended	2609		401 KAR 34:050		
401 KAR 8:600			Amended	586	3-12-97
Amended	2612		401 KAR 34:060		
401 KAR 8:700			Amended	589	
Amended	2614		Amended	2029	
401 KAR 30:005	1052	3-12-97	As Amended	2975	3-12-97
401 KAR 30:010			401 KAR 34:070		
Amended	475	3-12-97	Amended	597	3-12-97
401 KAR 30:031			401 KAR 34:080		
Amended	487	3-12-97	Amended	603	3-12-97
401 KAR 30:040			401 KAR 34:090		
Amended	490	3-12-97	Amended	606	3-12-97
401 KAR 30:080			401 KAR 34:100		
Amended	492	3-12-97	Amended	613	3-12-97
401 KAR 31:005	1054		401 KAR 34:120		
Amended	1956	3-12-97	Amended	621	
401 KAR 31:010			Amended	2037	3-12-97
Amended	494	3-12-97	401 KAR 34:180		
401 KAR 31:030			Amended	626	3-12-97
Amended	509	3-12-97	401 KAR 34:190		
401 KAR 31:040			Amended	629	3-12-97
Amended	511		401 KAR 34:200		
Amended	1969	3-12-97	Amended	635	3-12-97
401 KAR 31:050			401 KAR 34:210		
Amended	528	3-12-97	Amended	640	3-12-97

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LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
401 KAR 39:120			415 KAR 1:120		
Amended	983	3-12-97	Amended	2242	
401 KAR 40:001	1205	3-12-97	415 KAR 1:125	2336	
401 KAR 42:005			415 KAR 1:130	3649	
Amended	986	3-12-97	500 KAR 11:001		
401 KAR 43:005	1207		Amended	1000	11-8-96
Amended	2145	3-12-97	500 KAR 11:010		
401 KAR 43:010	1219	3-12-97	Amended	1408	11-8-96
401 KAR 43:020	1222	3-12-97	500 KAR 11:015		
401 KAR 43:030	1226		Amended	1409	11-8-96
Amended	2159	3-12-97	500 KAR 11:025		
401 KAR 43:040	1231		Amended	1410	
Amended	2163	3-12-97	As Amended	1935	11-8-96
401 KAR 43:050	1233	3-12-97	500 KAR 11:030		
401 KAR 43:060	1235	3-12-97	Amended	1001	
401 KAR 43:070	1237	3-12-97	As Amended	1935	11-8-96
401 KAR 44:005	1240		500 KAR 11:060		
Amended	2165	3-12-97	Amended	1412	11-8-96
401 KAR 44:010	1242	3-12-97	500 KAR 11:070		
401 KAR 44:020	1245	3-12-97	Amended	1413	11-8-96
401 KAR 44:030	1248	3-12-97	500 KAR 11:080		
401 KAR 44:040	1249		Amended	1414	
Amended	2167	3-12-97	As Amended	1938	11-8-96
401 KAR 44:050	1253	3-12-97	500 KAR 11:090		
401 KAR 44:060	1258	3-12-97	Amended	1415	11-8-96
401 KAR 44:070	1261	3-12-97	500 KAR 11:110	1279	
401 KAR 44:080	1264	3-12-97	As Amended	1938	11-8-96
401 KAR 46:060			500 KAR 11:120	1282	11-8-96
Recodified from 401-49:220		11-8-96	501 KAR 6:020		
401 KAR 46:070			Amended	175	9-11-96
Recodified from 401-49:230		11-8-96	Amended	1005	9-17-96
401 KAR 47:005	1265	3-12-97	Amended	1416	11-11-96
401 KAR 48:005			Amended	2250	1-9-97
Amended	990	3-12-97	Amended	2616	2-10-97
401 KAR 49:005	1272	3-12-97	Amended	3088	
401 KAR 49:220			Amended	3406	
Recodified as 401-46:060		11-8-96	501 KAR 6:040		
401 KAR 49:230			Amended	2252	1-9-97
Recodified as 401-46:070		11-8-96	Amended	2618	3-12-97
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702 KAR 3:270			Amended	3617	
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702 KAR 5:130			As Amended	3354	3-6-97
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702 KAR 7:010			Amended	1436	
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703 KAR 3:060			Amended	3102	
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703 KAR 3:205			Amended	3104	
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704 KAR 20:305			Amended	1682	12-13-96
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815 KAR 20:191			Amended	2863	2-19-97
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