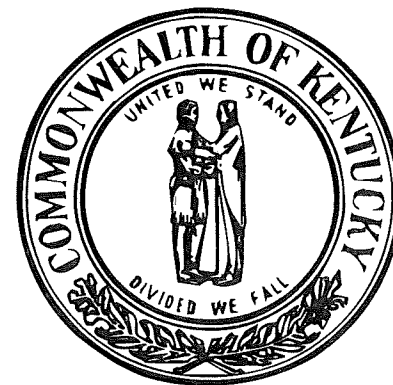


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 26, NUMBER 2
SUNDAY, AUGUST 1, 1999

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on August 10, 1999, at 10:30 a.m. in Room 149 of the Capitol Annex. See tentative agenda on pages 309-313 of this Administrative Register.

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

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

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VOLUME 26, NUMBER 2 – AUGUST 1, 1999

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA – August 10, 1999 at 10:30 a.m. in Room 149, Capitol Annex**

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Kentucky Educational Savings Plan Trust

- 11 KAR 12:010. Definitions for 11 KAR Chapter 12.
- 11 KAR 12:020. General rules for investments and fund transfers.
- 11 KAR 12:060. Cancellation, partial withdrawal, and payment of refund.
- 11 KAR 12:070. Benefits payable from the Kentucky Educational Savings Plan Trust Program fund.

Commonwealth Merit Scholarship Program

- 11 KAR 15:040. Kentucky Educational Excellence Scholarship award determination procedure. (Not Amended After Hearing)

**AGRICULTURAL EXPERIMENT STATION
University of Kentucky**

Fertilizer (Deferred from July)

- 12 KAR 4:170E. Maximum chlorine guarantee for tobacco fertilizers. (Will not be replaced by an ordinary).

PERSONNEL CABINET

Department of Personnel, Classified

- 101 KAR 2:020. Classification plan.
- 101 KAR 2:034. Classified compensation regulations.
- 101 KAR 2:037. Repeal of 101 KAR 2:036 and 101 KAR 2:100.
- 101 KAR 2:046. Applications, qualifications and examinations.
- 101 KAR 2:056. Registers.
- 101 KAR 2:066. Certification and selection of eligibles for appointment.
- 101 KAR 2:076. Vacancies, detail to special duty and temporary overlap.
- 101 KAR 2:095. Classified service administrative regulations.
- 101 KAR 2:102. Classified leave regulations.
- 101 KAR 2:105. Sick leave sharing procedures.
- 101 KAR 2:120. Incentive programs.
- 101 KAR 2:140. Workers' Compensation Fund and Program.
- 101 KAR 2:150. State Safety Program.

Department of Personnel, Unclassified

- 101 KAR 3:011. Repeal of 101 KAR 3:010.
- 101 KAR 3:015. Leave regulations for the unclassified service.
- 101 KAR 3:045. Compensation plan and pay incentives.

DEPARTMENT FOR LOCAL GOVERNMENT

Training Incentives

- 109 KAR 2:020E. Training incentive. (Deferred from July)

County Budget

- 109 KAR 15:020E. State Local Finance Officer Policy Manual. (Deferred from July)

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

Purchasing

- 200 KAR 5:340. Process for evaluating information for use in determining whether to approve privatization of a government service. (Deferred from June)

**Division of Occupations and Professions
Directory of Registered Athlete Agents**

Division of Occupations and Professions, Athlete Agents

- 200 KAR 30:010 & E. Definitions.
- 200 KAR 30:020 & E. Complaint review.
- 200 KAR 30:030 & E. Procedure for registration.
- 200 KAR 30:040 & E. Fees.
- 200 KAR 30:050 & E. Reinstatement.
- 200 KAR 30:060 & E. Annual contact report.
- 200 KAR 30:070 & E. Records retention.

GENERAL GOVERNMENT CABINET

Board of Pharmacy (Deferred from July)

- 201 KAR 2:010. Schools approved by the board.
- 201 KAR 2:020E. Examinations.
- 201 KAR 2:095. Dispensing responsibilities.

Board of Medical Licensure

- 201 KAR 9:175. Physician assistants; certification and supervision. (Deferred from June)
- 201 KAR 9:310. Continuing medical education. (Deferred from June)

Board of Registration for Professional Engineers and Land Surveyors (Deferred from July)

- 201 KAR 18:010. Classes of applicants and licensure requirements.
- 201 KAR 18:050. Branches of professional engineering for testing.
- 201 KAR 18:071. Repeal of 201 KAR 18:070.
- 201 KAR 18:080. Licensing certificates and cards.
- 201 KAR 18:091. Repeal of 201 KAR 18:090.

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- 201 KAR 18:100. Seals.
- 201 KAR 18:110. License renewals.
- 201 KAR 18:120. Reissuance of license certificate.

Kentucky Board of Social Work

- 201 KAR 23:075. Continuing education.

Board of Certification of Marriage and Family Therapists

- 201 KAR 32:010. Definitions.
- 201 KAR 32:045. Examination.
- 201 KAR 32:050. Code of ethics.

Board of Certification for Professional Counselors

- 201 KAR 36:060. Qualifying experience under supervision.

Board of Certification of Fee-Based Pastoral Counselors

- 201 KAR 38:010 & E. Definitions.
- 201 KAR 38:020 & E. Application.
- 201 KAR 38:030 & E. Equivalent course of study.
- 201 KAR 38:040 & E. Fees.
- 201 KAR 38:050 & E. Travel expenses of board members.
- 201 KAR 38:060 & E. Code of ethics.

KENTUCKY LOTTERY CORPORATION

Corporation

- 202 KAR 3:020. Procurement procedures. (Deferred from July)

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

Fish

- 301 KAR 1:201. Fishing limits.
- 301 KAR 1:400. Assessing fish kill damages.

Game

- 301 KAR 2:140. Requirements for wild turkey hunting.

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

Water Quality

- 401 KAR 5:002. Definitions for 401 KAR Chapter 5.
- 401 KAR 5:026. Designation of uses of surface waters.
- 401 KAR 5:029. General provisions.
- 401 KAR 5:030. Antidegradation policy implementation methodology.
- 401 KAR 5:031. Surface water standards.

PUBLIC PROTECTION AND REGULATION CABINET

Office of the Petroleum Storage Tank Environmental Assurance Fund

Petroleum Storage Tank Environmental Assurance Fund

- 415 KAR 1:080E. Claims procedures. (Deferred from June)
- 415 KAR 1:120. Hearings. (Not Amended After Hearing) (Deferred from February)

KENTUCKY HERITAGE LAND CONSERVATION FUND BOARD

General Administrative Procedures

- 418 KAR 1:020. Administrative procedures of the board. (Not Amended After Hearing)
- 418 KAR 1:030. State agency projects. (Not Amended After Hearing)
- 418 KAR 1:040. Competitive grants. (Not Amended After Hearing)
- 418 KAR 1:050. Procedures for acquisition of land. (Not Amended After Hearing)
- 418 KAR 1:060. Management. (Not Amended After Hearing)
- 418 KAR 1:070. Remedies. (Not Amended After Hearing)

JUSTICE CABINET

Abuse Investigation

- 500 KAR 13:020 & E. Internal Investigations Unit.

Division of Local Facilities

Jail Standards for Full-Service Facilities

- 501 KAR 3:010. Definitions.
- 501 KAR 3:040. Personnel.
- 501 KAR 3:060. Security; control.
- 501 KAR 3:070. Safety; emergency procedures.
- 501 KAR 3:110. Classification.
- 501 KAR 3:120. Admission; release.
- 501 KAR 3:140. Inmate rights.

Division of Adult Institutions

Office of the Secretary

- 501 KAR 6:020 & E. Corrections policies and procedures.
- 501 KAR 6:030. Kentucky State Reformatory
- 501 KAR 6:110. Roederer Correctional Complex.
- 501 KAR 6:999 & E. Corrections secured policies and procedures.

Division of Local Facilities

Restricted Custody Center

- 501 KAR 7:010. Definitions.
- 501 KAR 7:020. Administration; management.
- 501 KAR 7:040. Personnel.
- 501 KAR 7:050. Physical plant.
- 501 KAR 7:060. Security; control.
- 501 KAR 7:080. Sanitation; hygiene.
- 501 KAR 7:120. Admission; release.
- 501 KAR 7:140. Inmate rights.

Direct Supervision for Full-Service Jails

- 501 KAR 10:010. Definitions.
- 501 KAR 10:040. Personnel.
- 501 KAR 10:060. Security; control.
- 501 KAR 10:070. Safety; emergency procedures.
- 501 KAR 10:110. Classification.
- 501 KAR 10:120. Admission; release.
- 501 KAR 10:140. Inmate rights.

Department of State Police

Sex Offender Registration System

- 502 KAR 31:020E. Sex Offender Registration System.

Department of Criminal Justice Training

General Training Provision

- 503 KAR 3:020. Law enforcement training course trainee requirements; misconduct; penalties; discipline procedures.

Department of Juvenile Justice

Child Welfare

- 505 KAR 1:080. Kentucky educational collaborative for state agency children. (Deferred from July)

**TRANSPORTATION CABINET
Department of Vehicle Regulation**

Division of Motor Carriers

- 601 KAR 1:040. Application for operating authority and registration of motor carriers.

**Division of Motor Carriers
Office of General Counsel**

Motorcycle and Bicycle Safety

- 601 KAR 14:010. Headgear and eye-protective devices. (Not Amended After Hearing)

EDUCATION, ARTS, AND HUMANITIES CABINET

**Board of Education
Department of Education
Office of Learning Programs Development**

Office of Instruction

- 704 KAR 3:285. Programs for the gifted and talented.

**PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Board of Tax Appeals**

Tax Appeals

- 802 KAR 1:010. Rules of practice and procedure. (Amended After Hearing) (Deferred from October)

**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 2:300E. General.
- 803 KAR 2:301E. Adoption and extension of established federal standards.
- 803 KAR 2:306E. Occupational health and environmental control.
- 803 KAR 2:307E. Hazardous materials.
- 803 KAR 2:309E. General environmental controls.
- 803 KAR 2:313E. Materials handling and storage.
- 803 KAR 2:414E. Motor vehicles, mechanized equipment, and marine operations.
- 803 KAR 2:500E. Maritime employment.

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**PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Miner Training, Education and Certification**

Miner Training, Education and Certification

- 805 KAR 7:010. Miner training, education and certification.
- 805 KAR 7:020. Training and certification of inexperienced miners.
- 805 KAR 7:030. Annual retraining.
- 805 KAR 7:040. Training of newly employed miners.
- 805 KAR 7:050. Training of miners for new work assignments.
- 805 KAR 7:060. Program approval.
- 805 KAR 7:070. Record maintenance.
- 805 KAR 7:090. Hazard training.

Department of Insurance

Health Insurance Contracts

- 806 KAR 17:066E. Medicare supplement insurance policies. (Deferred from May)

**Department of Housing, Buildings and Construction
Division of Plumbing**

Plumbing

- 815 KAR 20:073. Installation standards for water and waste piping material of types K, L, M and DWV copper; types R-K, R-L, R-DWV brass tubing and seamless stainless steel tubing, G or H.

- 815 KAR 20:110. Traps and clean-outs.

Electrical Inspectors

- 815 KAR 35:030. Kentucky certification of electrical contractors.

**Commission on Fire Protection Personnel Standards and Education
Office of the State Fire Marshal**

Local Fire Departments

- 815 KAR 45:080. Volunteer fire department aid.

Department of Charitable Gaming

Charitable Gaming

- 820 KAR 1:001. Definitions for 820 KAR Chapter 1.
- 820 KAR 1:010. Temporary licensure.
- 820 KAR 1:015. Permanent licensure.
- 820 KAR 1:025. Quarterly reports of a licensed charitable organization.
- 820 KAR 1:030. Charity game ticket standards.
- 820 KAR 1:040. Bingo standards.
- 820 KAR 1:070. Exempt activities.
- 820 KAR 1:081. Repeal of 820 KAR 1:080. Charity fundraising event.

**CABINET FOR HEALTH SERVICES
Department for Public Health**

Health Services and Facilities

- 902 KAR 20:160. Chemical dependency treatment services and facility specifications. (Deferred from July)
- 902 KAR 20:240. Comprehensive physical rehabilitation hospital services. (Deferred from July)

Department for Medicaid Services

Medicaid Services

- 907 KAR 1:002. Definitions. (Deferred from February)
- 907 KAR 1:013E. Payments for hospital inpatient services.
- 907 KAR 1:019. Pharmacy services. (Amended After Hearing) (Deferred from February)
- 907 KAR 1:021. Amounts payable for drugs. (Amended After Hearing) (Deferred from February)
- 907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services. (Deferred from February)

ruary)

Payment and Services

- 907 KAR 3:035. Criteria for certification for out-of-state residential services for Medicaid-eligible children under 21. (Amended After Hearing)

**Department for Mental Health and Mental Retardation Services
Division of Substance Abuse**

Substance Abuse

- 908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs. (Amended After Hearing) (Deferred from May 1998)
- 908 KAR 1:311. Repeal of 908 KAR 1:010, 908 KAR 1:020, 908 KAR 1:030, 908 KAR 1:040, 908 KAR 1:050, 908 KAR 1:060, 908 KAR 1:070, 908 KAR 1:080, 908 KAR 1:090, 908 KAR 1:100, 908 KAR 1:110, 908 KAR 1:120, 908 KAR 1:130, 908 KAR 1:140, 908 KAR 1:150, 908 KAR 1:160, 908 KAR 1:170, 908 KAR 1:180, 908 KAR 1:190, 908 KAR 1:200, 908 KAR 1:210, 908 KAR 1:220, 908 KAR 1:230, 908 KAR 1:240, 908 KAR 1:250, and 908 KAR 1:260. (Deferred from July 1998)
- 908 KAR 1:370. Licensing procedures and standards for persons and agencies operating alcohol and other drug abuse treatment programs. (Amended After Hearing) (Deferred from August 1998)

Division of Mental Health

Mental Health

- 908 KAR 2:210. Domestic violence offender treatment certification standards.

Institutional Care

- 908 KAR 3:160 & E. Policies and procedures of Kentucky Correctional Psychiatric Center.

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**CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
Family Support**

Child Support

921 KAR 1:020. Child Support Program; confidentiality, program administration contracts, and agreements.
921 KAR 1:410. Child support collection and distribution.

Food Stamp Program

921 KAR 3:050. Claims and additional administrative provisions.

Protection and Permanency

Child Welfare

922 KAR 1:130. Kinship Care Program.

Day Care

922 KAR 2:160. Child day care assistance program.

Children's Residential Services

922 KAR 7:251. Repeal of 922 KAR 7:250. (Deferred from July)

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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NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS
RECEIVED AS OF NOON, JULY 15, 1999

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

June 30, 1999

(1) **11 KAR 3:100**, Administrative wage garnishment.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, adoption of the latest available figures reflecting annual consumer expenditures published by the United States Department of Labor, Bureau of Labor Statistics and adoption of the latest available poverty guidelines published by the United States Department of Health and Human Services in order to determine the validity of a borrower's claim of undue financial hardship.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 23, 1999, at 10 a.m., at 1050 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 Monday, August 23, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Fax (502) 696-7293.

(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 Kentucky Higher Education Assistance Authority 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 this administrative regulation is KRS 164.748(10) and 164.748(19).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will amend 11 KAR 3:100, as follows: Section 4(6) of the above cited administrative regulation establishes economic standards for evaluating a borrower's assertion that issuance of an administrative wage garnishment would pose an extreme financial hardship. The Kentucky Higher Education Assistance Authority intends to amend that section of the administrative regulation to include the most current figures published by the federal government to accurately reflect current poverty guidelines and consumer spending figures to assure an accurate standard for determining the validity of a claim of extreme financial hardship.

(c) The necessity and function of the proposed administrative regulation is as follows: Current poverty level and consumer expenditure figures are necessary to assure a current and accurate standard for determining the validity of a claim of extreme financial hardship.

(d) The benefits expected from the administrative regulation are: To establish an objective standard for extreme financial hardship that will be based on current economic data as established by the federal government.

(e) The administrative regulation will be implemented as follows: Upon notice of the Kentucky Higher Education Assistance Authority's intent to issue an administrative wage garnishment, a borrower contesting the garnishment and asserting a claim of extreme financial hardship will submit financial data to be evaluated in comparison to the data contained in the administrative regulation. Expenditures reported by the borrower which exceed amounts specified in the administrative regulation will be presumed to be unnecessary. Thus the most current figures relating to consumer expenditures must be utilized in the administrative regulation.

OFFICE OF THE KENTUCKY STATE TREASURER

July 15, 1999

(1) **20 KAR 1:090**. Accounts for unclaimed property held in an interest-bearing demand, savings or time deposit.

(2) The Kentucky State Treasurer intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed amendments to the administrative regulation has been scheduled for Monday, August 30, 1999 at 10 a.m., EST, at the offices of the Kentucky State Treasurer, Capitol Annex, Room 183, 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 August 30, 1999 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the State Treasurer at the following address: Stanley Salchli, Kentucky State Treasurer, Capitol Annex, Room 183, Frankfort, Kentucky 40601, Phone: (502) 564-4722, Fax: (502) 564-6545.

(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 State Treasurer at the Kentucky State Treasurer at the address above.

(7) Information relating to the proposed amendments to the administrative regulation.

(a) The statutory authority for the amendment of an administrative regulation relating to the hearing procedures and appeal for unclaimed

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property is KRS 393.130, 393.110, and 393.280.

(b) The administrative regulation the Kentucky State Treasurer proposes to promulgate will set out the requirements for the by holders of unclaimed property held in an interest-bearing demand, savings or time deposit and the accounts they are to place the unclaimed property in.

(c) The necessity and function of the proposed amendment to the administrative regulation is as follows: This amended administrative regulation will fulfill a statutory mandate governing accounts to be maintained by holders for unclaimed property that was held in an interest-bearing demand, savings or time deposit.

(d) The benefit expected from this administrative regulation is a more efficient and fair procedure for holder the unclaimed property of the rightful owner.

(e) The regulation will be implemented by the Kentucky State Treasurer. The Kentucky State Treasurer will implement this regulation by merely adhering to the procedures contained within the regulation and notifying affected holders.

FINANCE AND ADMINISTRATION CABINET Office of the Secretary

July 1, 1999

(1) **200 KAR 2:006.** Employees' reimbursement for travel.

(2) The Finance and Administration Cabinet intends to promulgate an amendment to the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed amendment to the administrative regulation has been scheduled for August 25, 1999, at 10 a.m. in Room 386, Capitol Annex, 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 calendar days prior to the hearing date, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Ed Ross, Controller, Finance and Administration Cabinet, Division of Statewide Accounting Services, Office of the Controller, Room 384 Capitol Annex, Frankfort, Kentucky 40601, Phone (502) 564-2210, Fax (502) 564-6597.

(b) On 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 the request may obtain a request form from the Office of the Secretary at the following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6660, Phone; (502) 564-9875 Fax.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 44.060 and 45.101.

(b) The proposed regulation will specify eligibility, requirements, rates and forms for reimbursement of travel expenses and other official expenses paid out of the State Treasury.

(c) The necessity and function of the proposed administrative regulation is as follows: The Finance and Administration Cabinet is directed by law to coordinate and supervise the fiscal affairs and procedures of the state and is authorized to adopt administrative regulations for that purpose.

(d) The benefit expected from this proposed administrative regulation is as follows: The regulation is intended to reimburse employees and others in the official service of the Commonwealth in a fair and just manner.

(e) This administrative regulation will be implemented by the Finance and Administration Cabinet and all affected agencies of the Commonwealth by adherence to the amended administrative regulation.

KENTUCKY BOARD OF BARBERING

June 17, 1999

(1) **201 KAR 14:056.** Repeal of 201 KAR 14:055.

(2) The Kentucky Board of Barbering 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 August 23, 1999, at 10 a.m., at the State Board's Office, 9114 Leesgate Road, Suite 6, Louisville, 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 a 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 August 23, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Bill Maggard, Jr., Administrator, Kentucky Board of Barbering, 9114 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5055, (502) 429-8841 Phone, (502) 429-5223 FAX.

(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 Bill Maggard, Jr. at the above address, or by calling (502) 429-8841 between the hours of 8 a.m. and 4:30 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 KAR 13A.310.

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(b) The administrative regulation that the Kentucky Board of Barbering intends to promulgate will repeal an existing administrative regulation. It will repeal 201 KAR 14:055.

(c) The necessity and function of the proposed administrative regulations is as follows: 201 KAR 14:055 is outside the statutory authority granted to the Board of Barbering.

(d) The benefits expected from this administrative regulation are: The regulation will be repealed since the Board of Barbering has no authority to enforce this regulation.

(e) The administrative regulation will be implemented as follows: The Regulations Compiler shall delete 201 KAR 14:055 and 201 KAR 14:056.

JUSTICE CABINET Department of Corrections

July 13, 1999

(1) **501 KAR 6:040**, Kentucky State Penitentiary.

(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 August 23, 1999, 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 August 23, 1999, 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, Tamela Biggs, Staff Attorney, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601, Phone (502) 564-2024, Fax (502) 564-6494.

(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 6:040, as follows:

1. Inmate Grooming and Dress Code (KSP 15-01-01) shall be amended to include a reference to the grooming policy for the Special Security Unit.

2. Inmate Release Procedure (KSP 25-01-02) is being established to provide for release of an inmate from the Kentucky State Penitentiary.

(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 authorizes 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 Kentucky State Penitentiary 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.

July 13, 1999

(1) **501 KAR 6:060**, Northpoint Training Center.

(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 August 23, 1999, 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 August 23, 1999, 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, Tamela Biggs, Staff Attorney, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601, Phone (502) 564-2024, Fax (502) 564-6494.

(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:

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(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 6:060, as follows:

1. The Fire and Safety Officer (NTC 08-05-01) shall be amended to provide adequate information for fire protection and safety for staff and inmates.

2. Fire Procedures (NTC 08-05-02) shall be amended to provide procedures for control of fire and a safe evaluation plan.

3. Fire Prevention (NTC 08-05-03) shall be amended to set forth the procedure for planning and training in the event of a possible fire.

4. Special Management Unit (NTC 10-01-01) shall be amended to advise the staff of their responsibilities within the Special Management Unit.

5. Protective Custody (NTC 10-03-01) shall be deleted as NTC no longer has a protective custody unit. Therefore, this policy is not needed.

6. Institutional Inspections (NTC 12-01-01) shall be amended to provide a system for periodic inspections and reviews operations and programs ensuring sanitation, safety, health and fire protection.

7. Personal Hygiene for Inmates; Clothing and Linens (NTC 12-02-01) shall be amended to provide a procedure for an inmate to have sanitary clothing and bedding.

8. Issuance of Personal Hygiene Products (NTC 12-02-02) shall be amended to ensure inmates are provided basic personal hygiene items.

9. Sanitation and Pest Control Officer Post Orders (NTC 12-04-01) shall be amended to provide guidelines for staff assigned to work as the sanitation and pest control officer.

10. Housekeeping Procedures (NTC 12-06-01) shall be amended to ensure daily housekeeping needs are maintained.

11. Grooming and Hair Care Standards (NTC 12-07-01) shall be amended to provide procedures and regulations for inmate grooming and hair care.

12. Sick Call and Pill Call (NTC 13-03-01) shall be amended to ensure health and dental services are provided to inmates.

13. Utilization of Pharmaceutical Products (NTC 13-04-01) shall be amended to delineate who shall prescribe psychotropic medication, to allow a medical correctional officer to retrieve and deliver necessary products to the Health Services Department and clarify the pharmacist's duties.

14. Dental Services (NTC 13-05-01) shall be amended to provide each inmate with routine and emergency dental care.

15. Licensure and Training Standards (NTC 13-06-01) shall be amended to ensure medical, dental, and mental health care is provided by a qualified, licensed professional.

16. Provisions for Health Care Delivery (NTC 13-07-01) shall be amended to provide for the delivery of health care services.

17. Medical and Dental Records (NTC 13-08-01) shall be amended to ensure a complete record is maintained on each inmate.

18. Inmate - Self Administration of Medication (NTC 13-13-01) shall be amended to provide written criteria for participation in a program that promotes safe and responsible self administration of prescribed medication.

19. Mental Health Care Program (NTC 13-19-01) shall be amended to set forth procedures to be followed in delivering mental health care to inmates.

20. Infectious Disease (NTC 13-20-01) shall be amended to ensure that an inmate is informed as to the nature, control, treatment and prevention of serious infectious disease.

21. Special Needs Inmates (NTC 13-23-01) shall be amended to identify inmates with special needs and issues a treatment plan for them.

22. Legal Services Program (NTC 14-01-01) shall be amended to ensure that inmates have access to the courts and legal counsel.

23. Receiving, Viewing, Handling and Storage of Video Tapes (NTC 14-01-02) shall be amended to provide each inmate with the opportunity to view the official video tape record of his trial.

24. Board of Claims (NTC 14-03-02) shall be amended to set forth guidelines for an inmate to receive compensation for damages sustained to person or property as a result of negligence on the part of NTC.

25. Personal Property Control (NTC 17-01-01) shall be amended to allow inmates to possess reasonable quantities of personal and legal property.

26. Authorized Inmate Personal Property (NTC 17-01-02) shall be amended to delete provisions regarding shoes, jewelry and state issued boots, and to require that an appliance be purchased directly from an approved vendor.

(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 authorizes 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 Northpoint Training Center 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.

July 13, 1999

(1) **501 KAR 6:170**, Green River Correctional Complex.

(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 August 23, 1999, 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 August 23, 1999, 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, Tamela Biggs, Staff Attorney, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601, Phone (502) 564-2024, Fax (502) 564-6494.

(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 6:170, as follows:
 1. Establishment of the GRCC Institutional Operation Manual (GRCC 01-01-01) shall be established to provide a written plan for use by inmates and staff regarding written procedures necessary to effectively maintain and operate the institution.
 2. Organization of GRCC Operations Manual (GRCC 01-01-02) shall be established to provide the proper arrangement of policies for the Operations Manual.
 3. Formulation and Revision of GRCC Operating Procedures (GRCC 01-01-03) shall be established to provide a written plan for any revision, addition or deletion of any GRCC institutional policy.
 4. Organization and Assignment of Responsibility (GRCC 01-02-01) shall be established to provide a written plan for the institution organization and management.
 5. Monthly Reports (GRCC 01-04-01) shall be established to provide a written plan for a system of notification to the institution's Central Office and to assist the institution in evaluating its performance.
 6. Procedures Officer (GRCC 01-05-01) shall be established to provide a written plan to insure and maintain the quality of services and operations at the institution.
 7. Inmate Access to, and Communication with GRCC Staff (GRCC 01-06-01) shall be established to provide a written plan to encourage a system of communication between staff and inmates and to provide inmate access to key institutional staff.
 8. GRCC Cooperation with Outside Bodies including Courts, Governmental, Legislative, Executive and Community Agencies (GRCC 01-08-01) shall be established to provide a written plan for planning, information sharing and cooperation with related agencies including the courts, parole authorities, federal, state and local legislative and executive bodies.
 9. Smoking: GRCC Facility (GRCC 01-10-01) shall be established to provide a written plan to comply with 200 KAR 6:45 and to provide a clean, healthy work environment for staff and inmates alike. Institutional Planning (GRCC 01-11-01) shall be established to provide a written plan of the proper procedure for institution planning.
 10. Institutional Planning (GRCC 01-11-01) shall be established to provide a written plan of the proper procedure for institution planning.
 - (c) The necessity and function of the proposed administrative regulation in as follows:
 1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes 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.

JUSTICE CABINET
Department of Juvenile Justice

July 13, 1999

- (1) **505 KAR 2:010, Definitions.**
- (2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.
- (b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:010, Definitions, is KRS 15A.210 to 15A.240.
 - (b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth definitions relating to the operation of juvenile detention facilities.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth definitions that will apply for this chapter.
 - (d) The benefits expected from the administrative regulation are the establishment of definitions relating to the operation of juvenile deten-

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tion facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:020**, Administration, organization and management.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:020, Administration, organization and management, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the management, operation and organization of juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the management, operation and organization of juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the management, operation and organization of juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:030**, Personnel.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:030, Personnel, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the personnel of juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the personnel of juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the personnel of juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:040**, Juvenile records.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:040, Juvenile records, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the organization, maintenance and treatment of juvenile records in juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the organization, maintenance and treatment of juvenile records in juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the organization, maintenance and treatment of juvenile records in juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:050**, Safety and emergency procedures.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:050, Safety and emergency procedures, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth safety and emergency procedures standards for juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth safety and emergency procedures standards for juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of safety and emergency procedures standards for juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:060**, Security and control.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

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

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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 Juvenile Justice 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 505 KAR 2:060, Security and control, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the security and control of juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the security and control of juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the security and control of juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:070**, Food service.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:070, Food service, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the management and operation of dietary services to juveniles in juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the management and operation of dietary services to juveniles in juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the management and operation of dietary services to juveniles in juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:080**, Sanitation and hygiene.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:080, Sanitation and hygiene, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to sanitation

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and hygiene in juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to sanitation and hygiene in juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to sanitation and hygiene in juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:090**, Juvenile rights.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:090, Juvenile rights, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the rights of juveniles in juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the rights of juveniles in juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the rights of juveniles in juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:100**, Training and staff development.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:100, Training and staff development, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the training and development of the staff of juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the training and development of the staff of juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the training and development of the staff of juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

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July 13, 1999

- (1) **505 KAR 2:110**, Medical and health care services.
- (2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.
- (b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:110, Medical and health care services, is KRS 15A.210 to 15A.240.
 - (b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the provision of medical and health care services to juveniles in juvenile detention facilities.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the provision of medical and health care services to juveniles in juvenile detention facilities.
 - (d) The benefits expected from the administrative regulation are the establishment of standards relating to the provision of medical and health care services to juveniles in juvenile detention facilities.
 - (e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

- (1) **505 KAR 2:120**, Rules and discipline.
- (2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.
- (b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:120, Rules and discipline, is KRS 15A.210 to 15A.240.
 - (b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the rules, and discipline for violation of the rules, governing the conduct of juveniles in juvenile detention facilities.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the rules, and discipline for violation of the rules, governing the conduct of juveniles in juvenile detention facilities.
 - (d) The benefits expected from the administrative regulation are the establishment of standards relating to the rules, and discipline for violation of the rules, governing the conduct of juveniles in juvenile detention facilities.
 - (e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

- (1) **505 KAR 2:130**, Intake.
- (2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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

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least 10 days prior to August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:130, Intake, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth intake criteria for the admission of juveniles to juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth intake criteria for the admission of juveniles to juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of intake criteria for the admission of juveniles to juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:140, Admission procedures.**

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:140, Admission procedures, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the procedures of admission for juveniles being admitted to juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the procedures of admission for juveniles being admitted to juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the procedures of admission for juveniles being admitted to juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:150, Programs.**

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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.

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(b) Persons who wish to file this request may obtain a request form from the Department of Juvenile Justice 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 505 KAR 2:150, Programs, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the programs and services available to juveniles in juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the programs and services available to juveniles in juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the programs and services available to juveniles in juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:160**, Communication: mail, visiting and telephone.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:160, Communication: mail, visiting and telephone, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the communication, including by mail, by telephone and with visitors, of juveniles in juvenile detention facilities with others.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the communication, including by mail, by telephone and with visitors, of juveniles in juvenile detention facilities with others.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the communication, including by mail, by telephone and with visitors, of juveniles in juvenile detention facilities with others.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:170**, Release preparation and transfer programs.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:170, Release preparation and transfer programs, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the release and transfer of juveniles in juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the release and transfer of juveniles in juvenile detention facilities.

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(d) The benefits expected from the administrative regulation are the establishment of standards relating to the release and transfer of juveniles in juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:180**, Citizen and volunteer involvement.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:180, Citizen and volunteer involvement, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the involvement of citizens and volunteers in the programs and services provided by juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the involvement of citizens and volunteers in the programs and services provided by juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the involvement of citizens and volunteers in the programs and services provided by juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:190**, Waiver of compliance.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:190, Waiver of compliance, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the waiver of the rated capacity limits of juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the waiver of the rated capacity limits of juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the waiver of the rated capacity limits of juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:200**, Physical plant.

(2) The Department of Juvenile Justice 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 August 25,

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1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:200, Physical plant, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the physical plants at juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the physical plants at juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the physical plants at juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:210**, Application for construction, expansion or renovation.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:210, Application for construction, expansion or renovation, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the construction, expansion or renovation of juvenile detention facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the construction, expansion or renovation of juvenile detention facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the construction, expansion or renovation of juvenile detention facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:220**, Registration.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

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(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:220, Registration, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards relating to the registration of juvenile detention facilities with the Department of Juvenile Justice.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards relating to the registration of juvenile detention facilities with the Department of Juvenile Justice.

(d) The benefits expected from the administrative regulation are the establishment of standards relating to the registration of juvenile detention facilities with the Department of Juvenile Justice.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

July 13, 1999

(1) **505 KAR 2:230**, Additional standards for juvenile holding facilities.

(2) The Department of Juvenile Justice 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 August 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero 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 agrees, 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 August 25, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601, Phone: (502) 573-2738, Fax: (502) 573-4308.

(b) On 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 form from the Department of Juvenile Justice 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 505 KAR 2:230, Additional standards for juvenile holding facilities, is KRS 15A.210 to 15A.240.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate sets forth standards applicable only to juvenile holding facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.210 requires that the Department of Juvenile Justice issue and enforce regulations governing the operation of juvenile detention facilities. This regulation sets forth standards applicable only to juvenile holding facilities.

(d) The benefits expected from the administrative regulation are the establishment of standards applicable only to juvenile holding facilities.

(e) The administrative regulation will be implemented by the governing authorities and staff of all juvenile detention facilities in the Commonwealth. Compliance will be monitored and enforced by the Department of Juvenile Justice.

EDUCATION PROFESSIONAL STANDARDS BOARD

July 1999

(1) **704 KAR 20:210**. Substitute teachers and emergency school personnel.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 24, 1999, at 10 a.m. in the Local District Room, First Floor, Capital Plaza Tower, 500 Mero Street, 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 August 24, 1999, the hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, 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.

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(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the certification of emergency school personnel is KRS 161.020 and 161.028.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:210, Substitute teachers and emergency school personnel. The regulation will be changed to amend the current Emergency School Personnel Pilot Program. The amendment will extend the program to a total of 12 districts who apply and receive approval from the EPSB.

(c) The necessity, function, and conformity section of the proposed administrative regulation is as follows: KRS 161.020 requires a certificate of legal credential for any public school position for which a certificate is issued. There has been an expressed need by local school districts for the certification of individuals as emergency school personnel. This program worked as a pilot program for the 1998-99 school year in 5 districts and was successful in meeting the needs of the local school districts. Through this amendment, the program will be extended allow these 5 districts to continue in the program, and allow additional districts to apply for EPSB approval (not to exceed 12 total) for the pilot project.

(d) The benefit expected from administrative regulation is: The expansion of this pilot program will allow the EPSB to obtain more data on the use of emergency school personnel in Kentucky, and allow school districts more options in staffing classrooms.

(e) The administrative regulation will be implemented as follows: The regulation will be communicated to all school district personnel and superintendents as soon as the amendment is effective.

EDUCATION, ARTS, AND HUMANITIES CABINET Certification of Librarians

July 6, 1999

(1) **725 KAR 2:060.** Certification of public librarians.

(2) Kentucky State Board for the Certification of Librarians 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 August 30, 1999, at 10 a.m., in the Board Room, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, 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 August 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Tezeta G. Lynes, Program Development Office Branch Manager, Kentucky Department For Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, (502) 564-8300 ext. 267, (502) 564-5773 (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 Kentucky State Board for the Certification of Librarians 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 725 KAR 2:060 is KRS Chapter 13A, 171.250, and 171.260.

(b) The administrative regulation that the State Board for the Certification of Librarians intends to promulgate will amend 725 KAR 2:060 Certification of public librarians. It will bring into conformity the administrative regulations with the statutes.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: Certification of public librarians is mandated by KRS 171.250 and 171.260. Administrative regulations are needed to prescribe the rules by which public librarians shall be certified. This program is administered by Kentucky Department for Libraries and Archives.

(d) The benefits expected from administrative regulation are conformity with the statutes on the issue of part time vs. full time, and to promote training and education using today's advances in technology.

(e) The administrative regulation will be implemented as follows: By the Kentucky State Board for the Certification of Librarians, Department for Libraries and Archives, Education, Arts and Humanities Cabinet.

July 6, 1999

(1) **725 KAR 2:070.** Certification renewal of public librarians.

(2) Kentucky State Board for the Certification of Librarians 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 August 30, 1999, at 10 a.m., in the Board Room, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, 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 August 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Tezeta G. Lynes, Program Development Office Branch Manager, Kentucky Department For Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, (502) 564-8300 ext. 267, (502) 64-5773 (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 admin-

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istrative 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 Kentucky State Board for the Certification of Librarians 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 725 KAR 2:060 is KRS Chapter 13A, 171.250, and 171.260.

(b) The administrative regulation that the State Board for the Certification of Librarians intends to promulgate will amend 725 KAR 2:070 Certification renewal of public librarians. It will bring into conformity the administrative regulations and the statutes.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: Certification of public librarians is mandated by KRS 171.250 and 171.260. Administrative regulations are needed to prescribe the rules by which public librarians shall be certified. This program is administered by Kentucky Department for Libraries and Archives.

(d) The benefits expected from administrative regulation are conformity with the statutes on the issue of part time vs. full time, and to promote training and education using today's advances in technology.

(e) The administrative regulation will be implemented as follows: By the Kentucky State Board for the Certification of Librarians, Department for Libraries and Archives, Education, Arts and Humanities Cabinet.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM Board of Regents

June 22, 1999

(1) **739 KAR 1:010.** Acquisition and disbursement of funds, accounting system - records and annual report.

(2) The Kentucky Community and Technical College System Board of Regents 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 August 27, 1999, 10 a.m., First Floor Conference Room, KCTCS Conference Center Building, 2720 Research Park Drive, Lexington, Kentucky 40512.

(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 August 27, 1999, 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 August 27, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Ms. Beverly Haverstock, General Counsel, KCTCS, 2624 Administration Park Drive, P.O. Box 14092, Lexington, Kentucky 40512-4092, (606) 246-3138, FAX (606) 246-3171.

(b) On 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 KCTCS 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 acquisition and disbursement of funds, accounting system - records and annual report is KRS 164A.560.

(b) The administrative regulation that the Kentucky Community and Technical College System Board of Regents intends to promulgate is 739 KAR 1:010.

(c) The necessity and function of the proposed administrative regulation is to effect an election by the Kentucky Community and Technical College System Board of Regents to perform the financial management functions in KRS 164A.560 (Election by institution to perform in accordance with KRS 164A.555 to 164.630).

(d) The benefits expected from this administrative regulation are that the Kentucky Community and Technical College System will be responsible for its own financial management functions as contemplated by the Kentucky General Assembly in KRS 164A.560.

June 22, 1999

(1) **739 KAR 1:020.** Delegation of financial management responsibility.

(2) The Kentucky Community and Technical College System Board of Regents 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 August 27, 1999, 10 a.m., First Floor Conference Room, KCTCS Conference Center Building, 2720 Research Park Drive, Lexington, Kentucky 40512.

(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 August 27, 1999, public hearing, it will be held 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 August 27, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Ms. Beverly Haverstock, General Counsel, KCTCS, 2624 Administration Park Drive, P.O. Box 14092, Lexington, Kentucky 40512-4092, (606) 246-3138, FAX (606) 246-3171.

(b) On 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 form from the KCTCS at the address listed above.

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(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the delegation of financial management responsibility is KRS 164A.560.

(b) The administrative regulation that the Kentucky Community and Technical College System Board of Regents intends to promulgate is 739 KAR 1:020.

(c) The necessity and function of the proposed administrative regulation is to effect an election by the Kentucky Community and Technical College System Board of Regents to perform the financial management functions in KRS 164A.560 (Election by institution to perform in accordance with KRS 164A.555 to 164.630).

(d) The benefits expected from this administrative regulation are that the Kentucky Community and Technical College System will be responsible for its own financial management functions as contemplated by the Kentucky General Assembly in KRS 164A.560.

June 22, 1999

(1) **739 KAR 1:030.** Annual audit.

(2) The Kentucky Community and Technical College System Board of Regents 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 August 27, 1999, 10 a.m., First Floor Conference Room, KCTCS Conference Center Building, 2720 Research Park Drive, Lexington, Kentucky 40512.

(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 five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If five persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this August 27, 1999, public hearing, it will be held 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 August 27, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Ms. Beverly Haverstock, General Counsel, KCTCS, 2624 Administration Park Drive, P.O. Box 14092, Lexington, Kentucky 40512-4092, (606) 246-3138, FAX (606) 246-3171.

(b) On 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 form from the KCTCS 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 acquisition and disbursement of funds, accounting system - records and annual report is KRS 164A.560.

(b) The administrative regulation that the Kentucky Community and Technical College System Board of Regents intends to promulgate is 739 KAR 1:030.

(c) The necessity and function of the proposed administrative regulation is to effect an election by the Kentucky Community and Technical College System Board of Regents to perform the financial management functions, including an annual audit, in KRS 164A.560 (Election by institution to perform in accordance with KRS 164A.555 to 164.630).

(d) The benefits expected from this administrative regulation are that the Kentucky Community and Technical College System will be responsible for its own financial management functions, including an annual audit, as contemplated by the Kentucky General Assembly in KRS 164A.560 and 164A.570.

June 22, 1999

(1) **739 KAR 1:040.** Purchase - inventories - sales of surplus property procedures.

(2) The Kentucky Community and Technical College System Board of Regents 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 August 27, 1999, 10 a.m., First Floor Conference Room, KCTCS Conference Center Building, 2760 Research Park Drive, Lexington, Kentucky 40512.

(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 August 27, 1999, public hearing, it will be held 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 August 27, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Ms. Beverly Haverstock, General Counsel, KCTCS, 2624 Administration Park Drive, P.O. Box 14092, Lexington, Kentucky 40512-4092, (606) 246-3138, FAX (606) 246-3171.

(b) On 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 form from the KCTCS 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 assuming responsibility for financial services relating to purchasing is KRS 164A.560.

(b) The administrative regulation that the Kentucky Community and Technical College System Board of Regents intends to promulgate is 739 KAR 1:040.

(c) The necessity and function of the proposed administrative regulation is to effect an election by the Kentucky Community and Technical College System Board of Regents to perform certain purchasing services as authorized by KRS 164A.560 (Election by institution to perform in accordance with KRS 164A.555 to 164.630).

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(d) The benefits expected from this administrative regulation are that the Kentucky Community and Technical College System will be responsible for its own financial management of purchasing services as contemplated by the Kentucky General Assembly in KRS 164A.560.

June 22, 1999

(1) **739 KAR 1:050**. Affiliated corporations.

(2) The Kentucky Community and Technical College System Board of Regents 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 August 27, 1999, 10 a.m., First Floor Conference Room, KCTCS Conference Center Building, 2760 Research Park Drive, Lexington, Kentucky 40512.

(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 five persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this August 27, 1999, public hearing, it will be held 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 August 27, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Ms. Beverly Haverstock, General Counsel, KCTCS, 2624 Administration Park Drive, P.O. Box 14092, Lexington, Kentucky 40512-4092, (606) 246-3138, FAX (606) 246-3171.

(b) On 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 form from the KCTCS 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 acquisition and disbursement of funds, accounting system - records and annual report is KRS 164A.560.

(b) The administrative regulation that the Kentucky Community and Technical College System Board of Regents intends to promulgate is 739 KAR 1:050.

(c) The necessity and function of the proposed administrative regulation is to effect an election by the Kentucky Community and Technical College System Board of Regents to perform the financial management functions, including the formation of affiliated corporations, in KRS 164A.560 (Election by institution to perform in accordance with KRS 164A.555 to 164.630).

(d) The benefits expected from this administrative regulation are that the Kentucky Community and Technical College System will be authorized to form affiliated corporations as contemplated by the Kentucky General Assembly in KRS 164A.560 and 164.610.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

June 15, 1999

(1) **806 KAR 17:205**, High-cost condition codes and severity questionnaire.

(2) The Department of 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 August 23, 1999, at 10 a.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, 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 August 23, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sharron S. Burton, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Phone - (502) 564-6032. Fax - (502) 564-1456.

(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 Insurance 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 the administrative regulation is KRS 304.17A-005(19)(b).

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. By designating an International Classification Of Diseases (ICD) code for each high-cost condition and incorporating an underwriting questionnaire to assign a severity score, this administrative regulation will establish a mechanism whereby an insurer may identify a guaranteed acceptance program (GAP) qualified individual.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.17A-005(19)(b) requires the Commissioner of Insurance to establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost. The commissioner is required to use the most recent version of the ICD to identify a high-cost condition of an individual who is a GAP qualified individual. This administrative regulation is necessary in order to establish guidelines for the identification of a high-cost condition by using an ICD code and a severity rating for each high-cost condition.

(d) The benefits expected from administrative regulation is as follows: By designating a severity rating, above which a condition is considered to be high-cost, this administrative regulation will provide guidance in determining who among insureds is eligible for GAP participation.

(e) The administrative regulation will be implemented as follows: This administrative regulation is informational in that it provides codes that identify high-cost conditions. In addition, the administrative regulation establishes an underwriting questionnaire that, when completed, will

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designate the severity of the high-cost condition.

PUBLIC PROTECTION AND REGULATION CABINET Department of Financial Institutions

July 9, 1999

- (1) **808 KAR 1:140**, Annual assessment fees.
- (2) The Department of Financial Institutions 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 August 25, 1999 at 10 a.m. at the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, 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 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 August 25, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Colleen Keefe, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Phone (502) 573-3390, Fax (502) 573-8787.
- (b) On 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 form from the Department of Financial Institutions at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of the proposed administrative regulation is KRS 287.480(1)(b).
 - (b) The proposed administrative regulation will not amend an existing regulation. It will set forth the amount of the annual assessment fees for banks chartered by the department.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 287.480(1)(b) provides that banks shall pay an annual assessment fee to the department based on the assets of the bank. A regulation is necessary to set forth the amount of the fee.
 - (d) The benefits expected from the proposed administrative regulation are: The assessment fee will be set forth in a regulation.
 - (e) The proposed administrative regulation will be implemented as follows: It will be published in financial institution law publications that are available to the regulated entities and the public.

June 21, 1999

- (1) **808 KAR 10:260**. Examination requirement for individuals advising the public on securities, broker-dealers, and agents.
- (2) The Department of Financial Institutions intends to promulgate 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 August 25, 1999 at 10 a.m. at the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, 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 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 August 25, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Attn: Colleen Keefe, Telephone (502) 573-3390, Fax (502) 573-8787.
- (b) On 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 form from the Department of Financial Institutions at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of the proposed administrative regulation is KRS 292.500(3).
 - (b) The proposed administrative regulation will amend 808 KAR 10:260 to reflect the model rule adopted by NASAA pertaining to the examination requirements for investment advisers and investment adviser representatives and the waiver granted to certain individuals.
 - (c) The necessity and function of the proposed administrative regulation is as follows: To accurately reflect the scoring process for examinations and to waive the examination requirement for certain individuals.
 - (d) The benefits expected from the proposed administrative regulation are: Uniformity with other states.
 - (e) The proposed administrative regulation will be implemented as follows: It will be implemented by publishing the regulation in securities law publications available to the general public. It will be applied to all matters before the Department of Financial Institutions immediately after becoming effective.

KENTUCKY RACING COMMISSION

July 8, 1999

- (1) **810 KAR 1:009**. Jockeys and apprentices.
- (2) The Kentucky Racing Commission 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 August 26,

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1999, 10 a.m. at the commission offices at 4063 Iron Works Pike, Building B, Lexington, Kentucky 40511.

(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 or 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 August 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone: (606) 246-2040. Fax: (606) 246-2039.

(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 from the Kentucky Racing Commission 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 230.260.

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 810 KAR 1:009, Jockeys and apprentices. It will require all jockeys to wear safety helmets that meets a standard set by the American Society of Testing and Materials and certified by the Safety Equipment Institute.

(c) The necessity and function of the proposed administrative regulation is as follows: The changes in this regulation will help protect the jockeys from head trauma resulting from horse related accidents.

(d) The benefits expected from administrative regulation are: The required safety helmet will provide better protection for the jockeys resulting in fewer injuries and less serious injuries.

(e) The administrative regulation will be implemented as follows: Changes will be applied as soon as administratively permitted.

July 8, 1999

(1) **810 KAR 1:018**, Medication; testing procedures.

(2) The Kentucky Racing Commission 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 August 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Pike, Building B, Lexington, Kentucky 40511.

(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 or 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 August 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone: (606) 246-2040 Fax: (606) 246-2039.

(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 from the Kentucky Racing Commission 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 the administrative regulation is KRS 230.215, 230.260(1), (2), (3), (6), (7), and 230.320(1).

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 810 KAR 1:018 Medications; testing procedures. It will implement a new equine drug testing program at the Kentucky thoroughbred race tracks and will allow the stewards to refer disputes involving the use of therapeutic medications directly to the Racing Commission for disposition.

(c) The necessity and function of the proposed administrative regulation is as follows: Will provide fair and enforceable rules and a first-class drug testing system for the state.

(d) The benefits expected from administrative regulation are: Will provide a comfort level for the trainers and owners that participate in Kentucky racing.

(e) The administrative regulation will be implemented as administratively permitted.

July 8, 1999

(1) **810 KAR 1:026**, Racing associations.

(2) The Kentucky Racing Commission 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 August 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Pike, Building B, Lexington, Kentucky 40511.

(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 or 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 August 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone: (606) 246-2040. Fax: (606) 246-2039.

(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.

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(b) Persons who wish to file this request may obtain a request from the Kentucky Racing Commission 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 230.215(2), 230.225(1), and 230.260(3), (6).

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 810 KAR 1:026, Racing associations. It will require anyone that exercises a horse during training hours or accompanies a horse to the starting gate during racing hours to wear safety helmets that meets a standard set by the American Society of Testing and Materials and certified by the Safety Equipment Institute.

(c) The necessity and function of the proposed administrative regulation is as follows: The changes in this regulation will help protect individuals from head trauma resulting from horse related accidents.

(d) The benefits expected from administrative regulation are: The required safety helmet will provide better protection for any individual riding a horse on the track resulting in fewer injuries and less serious injuries.

(e) The administrative regulation will be implemented as follows: Changes will be applied as soon as administratively permitted.

July 8, 1999

(1) **810 KAR 1:060.** Chemical dependency.

(2) The Kentucky Racing Commission 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 August 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Pike, Building B, Lexington, Kentucky 40511.

(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 or 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 August 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone: (606) 246-2040. Fax: (606) 246-2039.

(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 from the Kentucky Racing Commission 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 230.210 et seq.

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 810 KAR 1:060, Chemical dependency. It will prohibit licensees from abusing alcohol or engaging in illegal drug use or activity, to provide for drug and alcohol testing and to establish consequences for violations of this regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will maintain the honesty and integrity of, and ensure the orderly conduct of, thoroughbred horse racing in Kentucky.

(d) The benefits expected from administrative regulation are: To maintain the honesty and integrity of racing in Kentucky.

(e) The administrative regulation will be implemented as follows: (Changes will be applied as soon as administratively permitted).

July 8, 1999

(1) **811 KAR 1:220.** Harness racing at county fairs.

(2) The Kentucky Racing Commission 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 August 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.

(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 or 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 August 26, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone: (606) 246-2040 Fax: (606) 246-2039.

(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 from the Kentucky Racing Commission 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 230.260(3).

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:220 in its entirety. It will revamp the county fair regulations governing harness racing at the Kentucky county fairs.

(c) The necessity and function of the proposed administrative regulation is as follows: To bring the county fair regulations up to the standards of other states.

(d) The benefits expected from administrative regulation are: It is determined that updating the program will attract more horses and a higher caliber of horses into the program.

(e) The administrative regulation will be implemented as follows: Changes will be applied as soon as administratively permitted.

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CABINET FOR HEALTH SERVICES
Department for Medicaid Services

July 15, 1999

- (1) **907 KAR 1:011.** Technical eligibility requirements.
- (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 August 31, 1999 at 9 a.m., in the Cabinet 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 August 31, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel; 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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 technical eligibility requirements are 42 USC 1397aa et seq., KRS 194A.030, 194A.050, 205.520, and 205.6481 through 6497.
 - (b) The administrative regulation that the Department for Medicaid Services intends to promulgate will add to the Medicaid Program, otherwise eligible targeted low-income children whose income is at or below 150% of the federal poverty level, will eliminate the requirement that a parent in a 2 parent family must not work more than 100 hours per month in order to be eligible for Medicaid, and will make minor policy clarifications.
 - (c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the technical eligibility requirements of the Medicaid Program.
 - (d) The benefits expected from administrative regulation are: Increased access to needed medical services for low income children whose income is at or below 150% of poverty level, compliance with 45 CFR 433.101(a)(1) and consistency in eligibility requirements with the TANF program.
 - (e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

July 15, 1999

- (1) **907 KAR 1:155.** Payments for supports for community living services for individuals with mental retardation or developmental disabilities.
- (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 August 31, 1999 at 9 a.m., in the Cabinet 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 August 31, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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 Member and Provider Services, 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 payments for supports for community living services for individuals with mental retardation or developmental disabilities are KRS 194A.030, 194A.050, and 205.520.

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(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will:

1. Implement a revised reimbursement payment methodology for the Supports for Community Living (SCL) Waiver Program;
2. Incorporate the definition of "department";
3. Make minor policy clarifications;
4. Incorporate minor changes to comply with KRS Chapter 13A; and
5. Incorporate the material incorporated by reference into the body of the administrative regulation and delete the reimbursement manual as material incorporated by reference.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the reimbursement policy for the Supports for Community Living Waiver Program.

(d) The benefits expected from administrative regulation are:

1. Ensure that SCL service providers receive adequate compensation for the provision of services;
 2. Ensure program participants continue to receive a high quality of care;
 3. Ensure that the appropriate definitions are included in the administrative regulation;
 4. Ensure that the policy that is included in the material incorporated by reference is contained in the body of the administrative regulation;
- and
5. Ensure that the administrative regulation complies with the requirements of KRS Chapter 13A.

(e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

July 15, 1999

(1) **907 KAR 1:640**, Income standards for Medicaid.

(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 August 31, 1999 at 9 a.m., in the Cabinet 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 August 31, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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 technical eligibility requirements are 42 USC 1397aa et seq., KRS 194A.030, 194A.050, 205.520, and 205.6481 through 6497.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will add to the Medicaid Program, otherwise eligible targeted low-income children whose income is at or below 150% of the federal poverty level, and eligible children under age 19 whose income is less than 100% of the federal poverty level. In addition, income exclusions for AFDC and family related Medicaid recipients are being added, and minor policy clarifications are being made.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the technical eligibility requirements of the Medicaid Program.

(d) The benefits expected from administrative regulation are: increased access to needed medical services for targeted low income children whose income is at or below 150% of poverty level, an increase in the income limits to 100% of the poverty level for children under age 19, and consistency in eligibility requirements with the TANF program.

(e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

July 15, 1999

(1) **907 KAR 4:020**, Kentucky Children's Health Insurance Program.

(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 August 31, 1999 at 9 a.m., in the Cabinet 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 August 31, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-

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7905, (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 Member and Provider Services, 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 KCHIP is KRS 205.6481 through 205.6497, 194A.030, 42 USC 1397aa et seq.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will establish the eligibility criteria, covered services, the application requisites, grievance and appeal rights, and the criteria for health service providers wishing to participate with the Commonwealth to provide KCHIP coverage through an expansion of the Title XIX Medicaid Program. The Kentucky Children's Health Insurance Program provides health care coverage and other coordinated services to children of the Commonwealth who are uninsured and otherwise not eligible for health insurance coverage. The Department for Medicaid Services anticipates making a draft of this ordinary administrative regulation available for review at least 48 hours prior to the hearing on the internet at <http://cfc.chs.chr.state.ky.us/chs/kchip/kchip.htm>. It is also anticipated that a copy of the draft regulation will be available at the time and place of the public hearing.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: The ordinary administrative regulation sets forth eligibility criteria, covered services, the application requisites, grievance and appeal rights and the criteria for health services providers wishing to participate with the Commonwealth to provide KCHIP coverage through an expansion of the TITLE XIX Medicaid Program.

(d) The benefits expected from administrative regulation are: The improved health status of children in Kentucky and continuity of care for previously uninsured children.

(e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

CABINET FOR FAMILIES AND CHILDREN Department for Community-Based Services Division of Policy Development

July 15, 1999

(1) **922 KAR 5:090.** General adult services.

(2) Cabinet for Families and Children, Department for Community-Based 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 August 31, 1999, at 9 a.m., in the 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 1 person representing 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 calendar days prior to August 31, 1999, 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 Trigg, Cabinet for Families and Children, Cabinet Regulation Coordinator, Office of the General 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 Community-Based Services, Division of Policy Development, CHR Building, 3rd Floor 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 Families and Children's regulations may call toll free 1-800-372-2973 (V/TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 922 KAR 5:090, General adult services is KRS 194B.050(1) and 209.035.

(b) The administrative regulation that the Department for Community-Based Services intends to promulgate will be a new administrative regulation that will develop the General Adult Services Program in Kentucky to focus on prevention with a goal of short-term intervention. This notice of intent establishes the following:

1. Criteria for intake and assessment to include:

a. An individual 18 years of age or older who is mentally or physically dysfunctional but not in an abuse, neglect or exploitation situation requests service, either directly or through another party or agency;

b. Information received on an individual 65 years of age or older without a mental or physical dysfunction that is allegedly being abused, neglected or exploited by a family member, household member or a caretaker;

c. An individual who has been allegedly abused by a former spouse, former cohabitating partner, or a partner with a child in common;

d. A situation in which a family support worker requests an assessment for a K-TAP exemption for an individual in a domestic violence

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situation and the alleged perpetrator is not a spouse or a cohabitating partner; and

e. Individuals who request transitioning services from out of home care within 12 months of release from the Cabinet for Families and Children commitment.

2. Time frame for provision of general adult services.

3. A tracking system for the collection of statistical data.

4. Appropriate and necessary service provision to include:

a. Information and referral;

b. Assessment;

c. On-going services; and

e. Support Services;

(i) Transportation;

(ii) Social work counseling; and

(iii) Problem solving services focusing on prevention.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 194B.050(1) requires the Secretary of the Cabinet for Families and Children to promulgate administrative regulations necessary to operate programs and fulfill responsibilities vested in the Cabinet for Families and Children. This administrative regulation sets forth the General Adult Services Program that is aimed at maintaining adults in the community at the highest level of self-sufficiency and autonomy.

(d) The benefits expected from this administrative regulation are: The development of this administrative regulation will assist in resolving problems relating to the physical, emotional, and environmental needs of the adult so he can become or maintain functioning in the areas of self-sufficiency or autonomy.

(e) The administrative regulation will be implemented as follows: by the Division of Policy Development, Department for Community-Based Services, Cabinet for Families and Children.

EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, JULY 15, 1999

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

STATEMENT OF EMERGENCY
200 KAR 2:006E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed amendment to this Administrative Regulation should be enacted on an emergency basis in order to reimburse employees for official business travel through the Management Administrative Reporting System (MARS), which is being implemented July 1, 1999. In order to meet the July 1 implementation date of MARS, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

JOHN P. MCCARTY, Secretary
PAUL E. PATTON, Governor

FINANCE AND ADMINISTRATION CABINET
Office of the Controller

200 KAR 2:006E. Employees' reimbursement for travel.

RELATES TO: KRS 44.060, 45.101

STATUTORY AUTHORITY: KRS 44.060, 45.101

EFFECTIVE: July 1, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Finance and Administration Cabinet is directed by law to coordinate and supervise the fiscal affairs and procedures of the state and is authorized to adopt administrative regulations for that purpose. The purpose of this administrative regulation is to specify eligibility, requirements, rates and forms for reimbursement of travel expense and other official expenses out of the State Treasury.

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

(1) "Cabinet" means the Finance and Administration Cabinet.

(2) "Division" means the Division of Statewide Accounting Services, Office of the Controller, [~~Accounts of the~~] Finance and Administration Cabinet.

(3) "High rate area" means a city or metropolitan area in which it has been recognized that higher meal costs and lodging rates have historically prevailed, and that has been designated by the Secretary of the Finance and Administration Cabinet as a high rate area. The cabinet's policies and procedures manual contains a list of "high rate areas".

(4) "Receipt" means any preprinted invoice, from a hotel, motel, restaurant or other establishment, showing the date of service, the amount charged for the service, the location where the service was performed and a description of the expenditure.

(5) "Secretary" means the Secretary of the Finance and Administration Cabinet.

(6) "Agency head" means the elected or appointed head of a budget unit.

(7) "Others in the official service of the Commonwealth" means persons who are not state employees as defined in KRS Chapter 18A, but who are travelling on official business for the Commonwealth, or who officially represent a state agency, at the direction or request of a state official authorized to give the direction or make the request. This definition shall not include contractors who shall be entitled to reimbursement for travel and related expenses only as provided in their contracts with the Commonwealth.

(8) "Subsistence" means amounts deemed to have been expended by a state officer, agent, employee, or other person authorized to receive reimbursement out of the State Treasury for meals, including tax and tips, while traveling on official state business, but shall not include any meals which may be included in charges for lodging or in

registration fees paid by or on behalf of a state officer or employee.

(9) "Residence" means address of the employee designated in the official records of the [~~Department of~~] Personnel Cabinet.

(10) "Agency" means a budget unit with an elected or appointed agency head.

(11) "Authority/approval" means approval granted in either written or electronic format.

(12) "Travel software" means the software used by the Commonwealth to process travel authorizations and travel reimbursement documents.

Section 2. General. (1) Affected agencies. Except as otherwise provided by law, this administrative regulation shall apply to all departments, agencies, boards, and commissions, and institutions of the Executive Branch of State Government, except state-supported universities. It shall not apply to the Legislative and Judicial branches and their employees.

(2) Enforcement.

(a) Each agency head shall be responsible for ensuring that travel reimbursement conforms to the provisions of this administrative regulation and that all travel expense from that agency is as economical as is feasible.

(b) A person who travels on official state business shall:

1. ~~Identify a travel policy [State on the travel voucher the purpose of each trip, if directed by the agency head];~~

2. Prior to trip, create a Travel Authorization (TE, TEO, or TEC), if required;

3. After travel, create a Travel Payment Voucher (TP) document for reimbursement of business-related expenses;

4. Submit a travel expense claim on a Travel Payment Voucher (TP) document for reimbursement;

5. Maintain records and receipts to support his claim; and

6. ~~[-]~~ Provide himself with sufficient personal funds to defray his travel expense.

(c) ~~A travel expense claim shall be submitted on Travel Voucher (DOA-34);~~

(d) The secretary or his designee may:

1. Disallow, or reduce the amount of a claim that violates the provisions of this administrative regulation; or

2. Require written justification for amounts claimed by an agency for its employee.

(d) ~~[-]~~ The secretary or his designee may authorize reimbursement for an employee's actual and necessary expenses for authorized travel if the head of the agency, or his designee, submits a written determination that establishes such reimbursement is:

1. Required to avoid an undue economic hardship on the employee; or

2. Economically advantageous for the Commonwealth.

(3) Eligibility. Except as provided by state law or by this administrative regulation, reimbursement shall not be claimed for expenses of any person other than state officers, members of boards and commissions, employees, bona fide wards, or other persons in the official service of the Commonwealth. Only necessary expenses of official travel shall be reimbursed.

(4) Interpretation. All final interpretations of this administrative regulation shall be made by the secretary. These determination shall be final and conclusive.

Section 3. Work Station. (1) The official work station of an employee assigned to an office shall be the street address where the office is located.

(2) The official work station of field employees shall be established by the agency head, based solely on the best interests of the Commonwealth.

(3) If an employee is permanently reassigned, or is stationed at a new place two (2) months, the new place shall become that em-

ployee's official work station.

Section 4. Authorizations. (1) For travel in Kentucky, or outside Kentucky, but within the United States or its possessions, or Canada, the person requesting reimbursement shall obtain authorization from the agency head or a designated representative as authorized by Secretary's Order S97-451.

(2) Travel expenses shall be reimbursed if travel was authorized in advance as provided by subsections (3), ~~and~~ (4), ~~and~~ (5) of this section.

(3) If direct billing is to be utilized for state park and motor pool expenses, authorization shall be requested on a Travel Authorization (TE) document.

(4) For travel outside of Kentucky, authorization shall be requested on Travel Authorization (TEO) document.

(5) For travel outside the United States, its possessions or Canada the person requesting reimbursement shall have obtained authorization from:

- (a) The agency head; and
- (b) The secretary; and
- (c) The governor; or
- (d) Their designated representatives.

(e) Authorization shall be requested on Travel Authorization (TEC) document ["Request for Out-of-Country Travel (DOA-28(A))"].

(5) [(4)] A travel request for travel specified in subsections (4) and (5) [(3)] of this section shall be received by the agency or cabinet at least five (5) working days before start of travel.

Section 5. Transportation. (1) Economy required.

(a) State officers, agents, employees, and others in the official service of the Commonwealth shall use the most economical, standard transportation available and the most direct and usually-traveled routes. Expenses added by use of other transportation or routes shall be assumed by the individual.

(b) Round-trip, excursion or other negotiated reduced-rate rail or plane fares shall be obtained if practical. Tickets shall be purchased through agency business travel accounts provided by a major charge card company and established with commercial travel agencies. Exceptions may be made with the approval of the agency head if other arrangements will be in the best interest of the Commonwealth. Agencies shall be billed monthly by the charge card company. Related payments shall be processed on Vendor Payment Voucher (P1) document [Purchase Orders (DOA-19)].

(2) State vehicles. State-owned vehicles with their credit cards shall be used for state business travel if available and feasible. Mileage payment shall not be claimed if state-owned vehicles are used.

(3) Privately-owned vehicles. Mileage claims for use of privately-owned vehicles shall be allowed if a state vehicle was not available or feasible.

(4) Buses, subways. For city travel, employees are encouraged to use buses and subways. Taxi fare may be allowed when more economical transportation is not feasible.

(5) Airline travel. Commercial airline travel shall be the lowest negotiated coach or tourist class. Additional expense for first-class travel shall not be reimbursed by the state. Reference subsection (1)(b) of this section for payment instructions.

(6) Special transportation.

(a) The cost of hiring cars or other special conveyances in lieu of ordinary transportation shall be allowed if written justification from the employee is submitted and approved by the agency head or his designated representative.

(b) Privately-owned aircraft may be used if it is determined to be to the advantage of the state, measured both by travel costs and travel time.

Section 6. Accommodations. (1) Lodging shall be the most economical, as determined by considering location of the lodging.

(2) Facilities providing special government rates or commercial rates shall be used if feasible.

(3) State-owned facilities shall be used for meetings and lodging if available, practicable and economical.

(4) Location. Cost for lodging within forty (40) miles of the claimant's official work station or home shall not be reimbursed unless ap-

proved in advance by the agency head, or a designated representative.

(5) Group lodging, by contract.

(a) State agencies and institutions may contract with hotels, motels and other establishments for four (4) or more employees to use a room or rooms on official business. Group rates shall be requested.

(b) The contract may also apply to meals and gratuities. The contract rates and the costs of rooms and meals per person shall not exceed limits set in Section 7 of this administrative regulation.

(c) ~~The traveler [agency] shall not claim [certify that the person is not claiming individual] reimbursement or subsistence for room and meals paid direct to an establishment providing these services [the same costs].~~

(d) ~~["Contract for Rooms and Meals (Form B120-16)"] shall be used to contract for group lodging.~~

(e) For payment, an agency shall forward to the division:

- 1. ~~Receiving report "Purchase Order Authorization for Payment (Form DOA-19)";~~
- 2. ~~The vendor's bill;~~
- 3. ~~The names of the employees or others in the official service of the Commonwealth; and~~
- 4. ~~A copy of the contract.~~

(f) ~~Payment shall be made on a Vendor Payment Voucher (P1) document and shall not include personal charges of employees or others in the official service of the Commonwealth.~~

(e) [(g)] Payment shall be made to the hotel, motel, or other establishment.

(f) [(h)] Contracted group meeting rooms and lodging and meal charges are exempt from Kentucky sales tax and the agency sales-use tax number assigned by the Revenue Cabinet shall be specified on the payment document.

(g) [(i)] Tax exempt numbers shall not be used by individual employees to avoid point of sale payment of Kentucky sales tax connected with lodging costs. Sales tax payments shall be reimbursed on ~~["Travel Payment Voucher (TP) document (DOA-34)"]~~.

(6) [(a)] State parks. A state agency or institution using state park facilities may pay for rooms and meals by Internal Travel Voucher (IT) document to transfer funds ["Interaccount Bill (Form DOA-7)"], within the limits of this administrative regulation.

~~[(b) Payment shall include preapproved Department of Parks "Interaccount Authorization Form (P1-1)"]~~

Section 7. Reimbursement Rates. (1) The following persons shall be exempted from the provisions of this section:

- (a) Governor;
- (b) Governor's staff;
- (c) Lieutenant governor;
- (d) State employees traveling on assignment with the governor or lieutenant governor;
- (e) Elected constitutional officers;
- (f) Cabinet secretaries;
- (g) State officers and employees authorized to travel outside the United States, its possessions or Canada;
- (h) Members of statutory boards and commissions; and
- (i) Others in the official service of the Commonwealth.

(2) Lodging.

(a) Except as provided in paragraph (b) of this subsection, a state officer, or employee shall be reimbursed for the actual cost of lodging if the:

- 1. Lodging is determined to be the most economical; and
- 2. State officer, or employee has provided [attached] the hotel, motel, or other establishment's receipt to be reimbursed for his travel expenses [expense voucher].

(b) Reimbursement for lodging shall not exceed the cost of a single room rate, except that if employees share lodging, each employee shall be reimbursed the lesser of single rate or one-half (1/2) the double rate.

(3) Subsistence.

(a) A state officer, or employee shall be eligible for reimbursement for subsistence for breakfast or lunch expenses while traveling in Kentucky, if his authorized work requires an overnight absence:

- 1. At a destination more than forty (40) miles from his work station and home;

2. During the mealtime hours established by paragraphs (d) and (e) of this subsection.

(b) A state officer, or employee shall be eligible for reimbursement for dinner expenses while traveling in Kentucky, if his authorized work requires an absence:

1. At a destination more than forty (40) miles from his work station and home;

2. During the mealtime hours established by paragraphs (d) and (e) of this subsection.

(c) A state officer or employee shall be eligible for reimbursement for meals while on authorized travel outside Kentucky, but within the United States, its possessions or Canada, at the reimbursement rates established in paragraphs (d) and (e) of this subsection. Employees must be in travel status during the entire time (i.e., to be eligible for breakfast reimbursement you must leave on or before 6:30 a.m. and return at or after 9 a.m.). This requirement applies to all meal times.

(d) Reimbursement for nonhigh rate areas:

1. Breakfast: authorized travel 6:30 a.m. through 9 a.m. - seven (7) ~~six (6)~~ dollars;

2. Lunch: authorized travel 11 a.m. through 2 p.m. - eight (8) ~~seven (7)~~ dollars;

3. Dinner: authorized travel 5 p.m. through 9 p.m. - fifteen (15) ~~fourteen (14)~~ dollars.

(e) Reimbursement for high rate areas.

1. Breakfast: authorized travel 6:30 a.m. through 9 a.m. - eight (8) ~~seven (7)~~ dollars;

2. Lunch: authorized travel 11 a.m. through 2 p.m. - nine (9) ~~eight (8)~~ dollars;

3. Dinner: authorized travel 5 p.m. through 9 p.m. - nineteen (19) ~~eighteen (18)~~ dollars.

(f) State officers or employees authorized to travel outside the United States, its possessions, or Canada shall be reimbursed for their actual and necessary expenses for subsistence.

(g) A state officer or an employee may, with prior approval of the agency head or designee, be reimbursed for the actual cost charged for meals, if he is assigned to attend meetings and training sessions.

(h) Lodging receipts, or other credible evidence, shall be attached to the travel voucher.

(4) Transportation expenses.

(a) Reimbursement for authorized use of a privately-owned vehicle shall:

1. Be made at the rate of thirty (30) ~~twenty-seven (27)~~ cents per mile; and

2. Not exceed the cost of airplane coach fare.

(b) Mileage for in-state travel shall be based on the "Kentucky Official Highway Map". Out-of-state mileage shall be based on the calculation from an accepted software mileage program or the most recent edition of the "Rand McNally Road Atlas".

(c) Reimbursement for the actual cost of commercial transportation shall be made upon submission of receipts with the travel voucher.

(d) Reimbursement for use of privately-owned aircraft shall be made if, prior to use, written justification was submitted to and approved by the agency head, or a designated representative.

(e) 1. A maximum of twelve (12) dollars per night for parking or camping charges for camping vehicles shall be reimbursed.

2. A receipt for parking or camping charges shall be submitted with the travel voucher.

(f) 1. Actual parking, bridge and highway toll charges shall be reimbursed.

2. A toll receipt for authorized in-state travel by two (2) axle vehicles shall not be required.

(g) Reimbursement shall be made for reasonable charges for:

1. Baggage handling;

2. Delivery of baggage to or from a common carrier, lodging or storage; and

3. Overweight baggage charges, if the charges relate to official business.

(5)(a) Registration fees required for admittance to meetings shall be reimbursed.

(b) If a registration fee entitles the registrant to meals, claims for meals shall be reduced accordingly.

(6)(a) Telephone and telegraph costs for necessary official business shall be reimbursed.

ness shall be reimbursed.

(b) Telephone calls to agency central offices shall be made through:

1. Agency 800 and 888 numbers, when available; or

2. A state government telephone credit card; or

3. Lowest available service.

(7) Other expenses may be allowed by the agency head or his designee if they are determined to be necessary expenses of official travel.

Section 8. Actual and Necessary Expenses. (1) The following persons are eligible for actual and necessary expenses:

(a) Governor;

(b) Governor's staff;

(c) Lieutenant governor;

(d) Elected constitutional officers;

(e) Cabinet secretaries;

(f) State employees traveling on assignment with the governor, lieutenant governor, elected constitutional officers, or cabinet secretaries;

(g) State officers and employees authorized to travel outside the United States, its possessions or Canada;

(h) Members of statutory boards and commissions; and

(i) Others in the official service of the Commonwealth.

(2)(a) Actual and necessary expenses of official business travel shall be reimbursed upon submission of receipts for items over ten (10) dollars.

(b) Actual and necessary expenses for official business travel shall include:

1. Lodging;

2. Meals;

3. Commercial transportation;

4. Taxes related to actual and necessary expenses; and

5. Reasonable gratuities.

(c) A credit card receipt shall be accepted for a meal if the receipt prepared by the establishment clearly shows that it is a receipt for a meal.

(d) Reimbursement for official use of a privately-owned vehicle shall:

1. Be thirty (30) ~~twenty-seven (27)~~ cents per mile; and

2. Not exceed airplane coach fare.

(e) 1. The governor and cabinet secretaries may be reimbursed for actual and necessary costs of entertaining official business guests, upon certification of these expenses to the secretary or his designee.

2. The secretary or his designee may:

a. Question a claim for reimbursement; and

b. Reduce the amount to be reimbursed, if he determines that it is excessive.

(f) An employee of the Economic Development Cabinet and the Tourism Cabinet shall be reimbursed for actual and necessary costs of entertaining official business guests of the Commonwealth if the costs were:

1. Related to the promotion of industry, travel, or economic development;

2. Substantiated by receipts; and

3. Certified by the head of the cabinet.

Section 9. Mileage. (1) Mileage commuting between home and work station shall not be paid.

(2) If an employee's point of origin for travel is the employee's residence, mileage shall be paid for the shorter of mileage between:

(a) Residence and travel destination; or

(b) Work station and travel destination.

(3) Vicinity travel, and authorized travel within a claimant's work station shall be listed on separate lines on the Travel Payment [expense] Voucher (TP) document.

Section 10. Travel Documents. (1) ADVANTAGE Travel has three (3) types of authorizations:

(a) TE for in-state travel;

(b) TEO for out-of-state travel; and

(c) TEC for foreign travel.

(2) A traveler shall create a Travel Authorization (TE, TEO, or

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TEC) document.

(a) A traveler shall create a Travel Authorization (TE) document if a state park facility or a motor pool vehicle will be used.

(b) A traveler shall create a Travel Authorization (TEO) document for an out-of-state trip.

(c) A traveler shall create a Travel Authorization (TEC) document for an out-of-country trip. [Forms: (1) A request for authorization for out-of-state travel shall be made on "Request for Authorization of Out-of-State Travel Form (DOA-28)".

(2) A request for authorization for travel out-of-country shall be made on a "Request for Authorization for Out-of-County Travel (DOA 28A)".]

(3) A contract for group accommodations shall be made on the standard form used by the establishment providing the services ["Contract for Rooms and Meals Form (B120-16)".]

(4) Authorization for reimbursement of others in the official service of the Commonwealth shall be requested on:

(a) A Vendor ["Purchase Authorization For] Payment Voucher (P1) document; or [(DOA-19)]; and]

(b) A ["Travel Payment Voucher (TP) document [Form (DOA-34)].

(5) A [An expense-]Travel Payment Voucher (TP) document [Form (DOA-34)] shall be used to claim reimbursement for travel expenses.

(6) The Travel Payment Voucher (TP) document shall be limited to the expenses made by one (1) person for:

- (a) Himself; and
- (b) If applicable, another person:
 1. Who is a ward of the Commonwealth; or
 2. For whom he is officially responsible.

(7) A Travel Payment Voucher (TP) document for expenses made for a person specified in subsection (6)(b) of this section shall include the person's:

- (a) Name; and
- (b) Status or official relationship to the claimant's agency.

(8)(a) A Travel Payment Voucher (TP) document shall be submitted [for]:

1. For one (1) major trip; or
2. Every two (2) weeks for employees that are in a travel status for an extended period [One (1) month of travel].

(b) A Travel Payment Voucher (TP) document shall include:

1. Social Security number of the claimant; and
2. Purpose of each trip.

(c) A Travel Payment Voucher (TP) document shall be signed and dated, or entered electronically and approved by the:

1. Claimant; and
2. [Claimant's supervisor; and
- 3.] Agency head or authorized representative.

(d) If monthly expenses total less than ten (10) dollars, a travel voucher may include expenses for six (6) months of a fiscal year.

(9)(a) Preparation of a Travel Payment Voucher (TP) document. A Travel Payment Voucher (TP) document shall be:

1. Legibly printed in ink or typed; [or]
2. Processed electronically through ADVANTAGE Travel; or
3. Processed electronically through WEB Travel. [Legibly printed in ink;]

(b) A receipt shall provide the following information for each expense:

1. Amount;
2. Date;
3. Location; and
4. Type.

(c) Receipts shall be maintained at the agency if documents are processed electronically [stapled to the back of the travel voucher at the upper left corner].

(d) A Travel Payment Voucher (TP) document, after approval, may be paid through ADVANTAGE Travel or, if manually prepared, sent to the Division of Statewide Accounting Services [agency imprest cash funds; if authorized; or forwarded to the cabinet] for payment.

(e) If leave interrupts official travel, the dates of leave shall be stated on the travel voucher.

material is incorporated by reference:

(a) ["Travel Payment Voucher (TP) document (1999) ["(DOA-34) (1997)];

(b) Travel Authorization (TE) document for in-state travel (1999) ["Request For Authorization Of Out-Of-Country Travel" (DOA-28(A)) (1992)];

(c) Travel Authorization (TEO) for out-of-state travel (1999) ["Purchase Order Authorization For Payment" (Form DOA-19) (1994)];

(d) Travel Authorization (TEO) document for out-of-country travel (1999) ["Interaccount Bill" (DOA-7) (1992)];

(e) Vendor Payment Voucher (P1) (1999) ["Contract For Rooms And Meals" (Form B120-16) (1992)];

(f) Internal Travel Voucher (IIT) document (1999) ["Interaccount Authorization (P1-1) (12/88), Department Of Parks"];]

(g) ["Request For Authorization Of Out-of-state Travel" (DOA-28) (1997);

(h) ["Kentucky Official Highway Map (1998) ["(1997);

(i) "Travel Voucher Continuation (DOA-35) (1997)";

(h) [(f)] Rand McNally Road Atlas (1998) (1996)";

(2) This material may be inspected, obtained, or copied at the Division of Statewide Accounting Services, Office of the Controller [Accounts], Finance and Administration Cabinet, Capitol Annex Building, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JOHN MCCARTY, Secretary

ANGELA C. ROBINSON, Asst. General Counsel

APPROVED BY AGENCY: June 30, 1999

FILED WITH LRC: July 1, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Ed Ross

(1) Type and number of entities affected: All departments, agencies, boards and commissions, and institutions of the executive branch of state government.

(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 direct or indirect costs or savings on the cost of living and employment in the geographical area in which the administrative regulation will be implemented are anticipated. No public comments have yet been received and no public hearing has yet taken place regarding this proposed regulation.

(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 direct or indirect costs or savings on the cost of doing business in the geographical area in which the administrative regulation will be implemented are anticipated. No public comments have yet been received and no public hearing has yet taken place regarding this proposed regulation.

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

1. First year following implementation: None

2. Second and subsequent years: Significant reduction of paperwork.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: Processing cost savings.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Second year and thereafter, there will be paperwork reductions.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Various governmental sources.

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

Section 11. (1) Material incorporated by reference. The following

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(a) Geographical area in which administrative regulation will be implemented: No public comments have yet been received and no public hearing has yet taken place regarding this proposed regulation. However, no impact is expected.

(b) Kentucky: No public comments have yet been received and no public hearing has yet taken place regarding this proposed regulation. However, no impact is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Does not apply.

(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 on public health and environmental welfare are expected in the geographical area in which the regulation will be implemented or in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on the environment and public health would result if the regulation was not implemented.

(c) If detrimental effect would result, explain detrimental effect: Does not apply.

(9) Identify any statute, rule, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations or government policies which are in conflict, overlap, or duplicate the proposed administrative regulation.

(a) Necessity of proposed regulation if in conflict: Does not apply.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Does not apply.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. This regulation applies equally to all regulated entities.

STATEMENT OF EMERGENCY 704 KAR 20:210E

This emergency administrative regulation expands the Emergency School Personnel Pilot Program originally established in 704 KAR 20:210. The initial program allowed only five (5) school districts to participate during the 1998-99 school year. This emergency administrative regulation will allow up to twelve (12) districts to participate during the 1999-2000 school year. An ordinary administrative regulation is not sufficient because school districts must apply for participation in the program by August 1, 1999, and the ordinary process would not be complete in time to facilitate this deadline (representing the start of the 1999-2000 school year for most districts). The Education Professional Standards Board (EPSB) delayed a decision on a reauthorization or expansion of the pilot program to obtain additional data from the original five (5) participating districts for the 1998-99 school year. This data shows the number of emergency substitutes used, as well as the school districts' plans for eliminating the need for emergency substitutes in the future. Complete data for the 1998-99 school year was not available until June 1999; therefore, the EPSB deferred judgment on the program until its regularly scheduled meeting June 21, 1999. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 6, 1999.

PAUL E. PATTON, Governor
TIM DEDMAN, Chair

EDUCATION PROFESSIONAL STANDARDS BOARD

704 KAR 20:210E. Substitute teachers and emergency school personnel.

RELATES TO: KRS 161.020, 161.028(1)(a), (c), 161.030(1), (9), 161.100

STATUTORY AUTHORITY: KRS 161.020, 161.028(1)(a), (c), 161.030(1), (9), 161.100

EFFECTIVE: July 6, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 requires that a teacher and other professional school personnel hold a certificate of legal qualification for the respective position. KRS 161.100 provides for the issuance of an emergency certificate. This administrative regulation establishes a certificate for substitute teaching and establishes the priority status of this certificate in comparison with a regular certificate and an emergency certificate.

Section 1. (1) The certificate for substitute teaching shall be issued in accordance with the pertinent Kentucky statutes and administrative regulations of the Education Professional Standards Board to an applicant who:

(a) Holds a valid statement of eligibility for a Kentucky teaching certificate; or

(b) Has previously held a Kentucky certificate for classroom teaching for which the completion of a four (4) year program of teacher preparation and a bachelor's degree were required.

(2) The certificate for substitute teaching shall be issued initially for a duration period of five (5) years and may be reissued or renewed upon recommendation of the employing school district superintendent.

(3) The certificate for substitute teaching shall:

(a) Be valid for substitute teaching; and

(b) Not be valid for:

1. Continuous part-time employment for classroom teaching; or

2. As a permanent replacement for a teacher of record for the remainder of the school year.

Section 2. To employ a substitute teacher during the absence of the teacher of record for a position, priority in selection and employment shall be given in accordance with the following order:

(1) A teacher who holds appropriate regular certification corresponding to the grade level of the teaching assignment;

(2) A teacher who holds regular certification for classroom teaching at any grade level;

(3) A teacher who holds the certificate for substitute teaching;

(4) Except as provided in subsection (5) of this section, a person certified on an emergency basis for substitute teaching pursuant to 704 KAR 20:210, who shall be called according to the following descending order relating to the amount of college hours completed:

(a) A bachelor's degree;

(b) At least ninety-six (96) semester hours of college credit;

(c) From sixty-four (64) to ninety-five (95) semester hours of college credit;

(5) A person certified on an emergency basis for substitute teaching in a health, technical, or industrial occupation with a minimum of four (4) years of occupational experience in the area to be taught and a high school diploma or its equivalent as determined by evidence of an acceptable score on the General Education Development Test.

Section 3. If a district is unable to employ a substitute teacher using the priority selection process established in Section 2 of this administrative regulation, a district may utilize a person through the Emergency School Personnel Pilot Program established by the [an approved] Education Professional Standards Board [one (1) year approval for emergency school personnel. The one (1) year approval for emergency school personnel shall be available to no more than five (5) districts during the pilot year of the plan, 1998-99. A district participating in the pilot year may be approved for participation in a subsequent year]. A district seeking participation in this program shall apply to and receive approval from the Education Professional Standards Board on an annual basis. The pilot program shall be limited to no more than twelve (12) districts during the 1999-2000 school year.

(1) Application for participation in the Emergency School Personnel Pilot Program for the 1999-2000 school year [The one (1) year approval for emergency school personnel] shall be filed by August 1, 1999 and reviewed for approval by the Education Professional Standards Board based upon the following documented components:

(a) The number of teaching days not filled with an appropriately

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certified teacher or appropriately certified emergency substitute in the preceding year;

(b) The extent and anticipated usage of emergency school personnel;

(c) A plan to eliminate the need for emergency school personnel in the future;

(d) The steps taken by the district to recruit and retain emergency certified personnel;

(e) The recruitment of persons with a high school diploma, age twenty-five (25) or over, except an individual enrolled in an approved teacher education program who may be less than twenty-five (25) years old;

(f) Recruitment of instructional assistants, parents or other paraprofessionals assigned to the school;

(g) A detailed outline of a minimum eighteen (18) clock hour orientation program including emphasis on student safety, district policies, and procedures; and

(h) An outline of the district screening process, including the required criminal record and reference check.

(2) Upon Education Professional Standards Board approval of the one (1) year approval plan, the district shall:

(a) Submit a list, by name, Social Security number, and school, of personnel meeting the requirements established in subsection (1) of this section;

(b) Utilize personnel in the school for which approval has been granted;

(c) Submit a quarterly report to the Education Professional Standards Board identifying the number of days personnel were utilized under this one (1) year approval plan; and

(d) Submit a year-end evaluation of the one (1) year approval plan for emergency school personnel.

(3) A district that was approved by the Education Professional Standards Board to operate an emergency school personnel pilot program the preceding year may file a renewal application for continuation of the program. Renewal shall be contingent upon a successful evaluation of the previous year's program pursuant to the application and reporting requirements of this administrative regulation.

TIM DEDMAN, Chair

MARCIA SEILER, Attorney

APPROVED BY AGENCY: June 30, 1999

FILED WITH LRC: July 6, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Marcia Seiler

(1) Type and number of entities affected: Local school districts facing shortages in certified emergency school personnel.

(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: In the districts selected for participation in this program, additional job opportunities are created for individuals with a high school education or its equivalent.

(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: Participating school districts must file an annual report detailing the use of emergency school personnel approved under this program.

2. Second and subsequent years: Participating districts must reapply for each subsequent year they wish to participate in this program.

(3) Effects on promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and 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: 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternative were rejected: The Education Professional Standards Board considered expanding the program to all districts in Kentucky. However, the board concluded that the data from the first year (1998-99) was insufficient to make such a determination. The expansion of this program to 12 districts from 5 in the first year represents the board's intent to gather more data on the need for emergency school personnel, and simultaneously address the challenges facing districts in recruiting certified substitute personnel.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas in which implemented and on Kentucky: Districts participating in this pilot program can use emergency school personnel to staff classrooms which could otherwise be left unattended on days when certified substitutes are unavailable. This action facilitates better classroom management and monitoring of student achievement and discipline.

(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: 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: The initial year of the pilot program, 1998-99, produced promising results from the 5 districts who participated. The districts reported that the program addressed the substitute shortages they were facing. The Education Professional Standards Board wishes to expand the program to 12 districts in the 1999-2000 year to establish additional and longitudinal data on the need for such a program statewide.

(11) TIERING: Is tiering applied? (Explain why tiering was or was not used) Yes. The program is still in its "pilot" phase. The board limited participation in the first year to only 5 districts, and 12 in the second year. Applications will be accepted from districts statewide, and the board will select up to 12 districts for participation in the program for the 1999-2000 school year, including the original 5 districts who can reapply for a second year in the program.

STATEMENT OF EMERGENCY 725 KAR 1:071E

This emergency administrative regulation repeals 725 KAR 1:070 establishing standards for documents presented for recording to a county clerk. In order to provide relief from the provisions of 725 KAR 1:070 perceived to have the potential to be financially injurious to entities effected, it is necessary to promulgate this emergency administrative regulation. An ordinary administrative regulation will not be filed with the Regulations Compiler because the immediate result of this emergency administrative regulation will be the repeal and removal of a standing administrative regulation.

PAUL E. PATTON, Governor

JAMES A. NELSON, Commissioner

**EDUCATION AND HUMANITIES CABINET
Department for Libraries and Archives
Division of Public Records**

725 KAR 1:071E. Repeal of 725 KAR 1:070.

RELATES TO: KRS 13A.310(3)(a)2, 171.450(1)(c), (2), 171.520
STATUTORY AUTHORITY: KRS 13A.310(3)(a)2, 171.450(1)(c),

(2), 171.520

EFFECTIVE: June 28, 1999

NECESSITY, FUNCTION, AND CONFORMITY: After a study of issues raised by regulated entities and the effect of 725 KAR 1:070, the department has determined it is necessary to repeal 725 KAR 1:070 and, through the procedures established by KRS Chapter 13A, conduct additional study and hearings prior to establishing the requirements for the filing of documents.

Section 1. 725 KAR 1:070, Standards for documents presented for recording, is hereby repealed.

JAMES A. NELSON, State Librarian and Commissioner

RICHARD CARROLL, Assistant Attorney General

APPROVED BY AGENCY: June 25, 1999

FILED WITH LRC: June 28, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 24, 1999, at 10 a.m. at the Kentucky Department for Libraries and Archives Board Room. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, 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 documents 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: Darrell Gabhart, Local Records Branch Manager, Department for Libraries and Archives, Public Records Division, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Ph: (502) 564-8300 x255, Fax: (502) 564-5773.

REGULATORY IMPACT ANALYSIS

Contact Person: Darrell Gabhart

(1) Type and number of entities affected: 120 county clerks' offices and individuals, companies, and other agencies presenting a document for official recording in a county clerk's office will be affected.

(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 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: There were no public comments received.

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

1. First year: None required.

2. Second and subsequent years: Not applicable.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: There will be no costs or savings realized by the Kentucky Department for Libraries and Archives the first year.

2. Continuing costs or savings: No direct continuing cost will be realized.

3. Additional factors increasing or decreasing costs:

(b) Reports 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: None needed.

(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 received.

(b) Kentucky: No public comments received.

(7) Assessment of alternative methods: None. Reasons why alternatives were rejected: This action can only be done by an emergency regulation to repeal.

(8) Assessment of expected benefits: This action is expected, by the banking community, to allow continued interstate commerce in real estate transactions.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There will be no effect on public health and environmental welfare in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Failure to implement this administrative regulation would not effect the environment or public health.

(c) If detrimental effect would result, explain detrimental effect: There will 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 government policy in conflict with, overlapping or duplicating this administrative regulation.

(a) Necessity of proposed if in conflict: This proposal is not in conflict with any statute, administrative regulation or government policy.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No effort to harmonize the proposed administrative legislation with other provisions was made because there is no conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not used since this administrative regulation will apply to all individuals or entities 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. The county clerk's office.

3. State the aspect or service of local government to which this administrative regulation relates: This administrative regulation relates to the county clerk's statutory mandate to act as the official recorder and custodian of legal documents (KRS Chapters 382, 73, 376, and 355).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): The specific fiscal impact of this administrative regulation on the office of the county clerk or on state government revenues is not possible to predict. Since full compliance with 725 KAR 1:070 was never obtained, there is no specific evidence of its effect on revenues. Therefore, the impact of the regulations repeal, essentially going back to the previous conditions, is impossible to accurately project

Expenditures (+/-): None

Other Explanation: None

STATEMENT OF EMERGENCY
739 KAR 1:010E

This emergency administrative regulation is necessary to meet a deadline established by KRS 164A.560 in accordance with KRS 13A.190(1)(a)(3). KRS 164A.560 requires the Kentucky Community and Technical College System Board of Regents, as the governing board of a postsecondary educational institution, to promulgate administrative regulations in order to assume responsibility for financial management functions established by KRS 164A.565, 164A.570, 164A.575, 164A.610, and 164A.620. The Kentucky Community and Technical College System ("KCTCS"), as a new institution established by KRS 164.580, had no technology systems of its own and has been operating through the two (2), different financial systems of its parent institutions - the University of Kentucky and the Commonwealth. It is imperative for efficiency and effectiveness of operation that KCTCS assume responsibility for its own financial management services at the earliest possible date. On April 29, 1999, the design work for the new financial management system was complete to the point that a start-up date of July 1, 1999, for KCTCS to assume its financial management functions could be predicted with reasonable certainty. On that date, the KCTCS Board of Regents approved the promulgation of this emergency administrative regulation. The new system must be implemented on July 1, 1999, the beginning of the next fiscal year. Thus, an emergency administrative regulation is needed in order to meet the deadline mandated by state law in KRS 164A.560. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 739 KAR 1:010 was filed with the Regulations Compiler on June 22, 1999.

PAUL E. PATTON, Governor
MARTHA C. JOHNSON, Chair

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE
Board of Regents

739 KAR 1:010E. Acquisition and disbursement of funds,
accounting system - records and annual report.

RELATES TO: KRS 164A.560, 164A.565, 164A.570, 164A.575,
164A.610, 164A.620

STATUTORY AUTHORITY: KRS 164A.560, 164A.565

EFFECTIVE: June 22, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The governing boards of the public postsecondary institutions may elect to perform certain financial management functions by promulgating administrative regulations. This administrative regulation implements the provisions of KRS 164A.560 and 164A.565 at the Kentucky Community and Technical College System.

Section 1. The Kentucky Community and Technical College System Board of Regents elects to perform the financial functions in KRS 164A.560(2), related to the receipt, deposit, collection, retention, investment, disbursement, and accounting of all funds and the functions in KRS 164A.565 related to the installation of and accrual basis accounting system, other records and annual reports.

Section 2. The Kentucky Community and Technical College System Board of Regents elects to comply with KRS 164A.560(2)(b) to limit disbursements to the accounts and for the purposes for which the state appropriations, or other monies have been received through the enacting resolution of the institution's annual operating budget.

Section 3. The Kentucky Community and Technical College System Board of Regents shall use an accrual basis accounting system and fund structure that conforms with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants, and shall act to ensure further compliance with KRS 164.565(2), (3), (6), (7), and (8).

MARTHA C. JOHNSON, Chair
BEVERLY H. HAVERSTOCK, General Counsel
APPROVED BY AGENCY: June 16, 1999
FILED WITH LRC: June 22, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: 13 community colleges, 15 technical colleges and the system office of the Kentucky Community and Technical College System. Also, the business and personnel offices of the University of Kentucky and the Commonwealth.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

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

1. First year following implementation: Compliance, reporting, and paperwork requirements are the ordinary, necessary and usual requirements for the financial management operations of state colleges and universities regarding the acquisition of funds and accrual accounting systems.

2. Second and subsequent years: The same as the first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The costs of operating the financial management functions of the Kentucky Community and Technical College System are offset by the savings realized by bringing the functions in house as opposed to outsourcing the services.

2. Continuing costs or savings: The costs and savings will remain about the same on a continuing basis.

3. Additional factors increasing or decreasing costs: None are known at the present time, however, if there are new 2 year colleges added to the system or if there are new responsibilities added to administer in the future, there would be increased costs to the Kentucky Community and Technical College System.

(b) Reporting and paperwork requirements: Reporting, and paperwork requirements are the ordinary, necessary and usual requirements regarding the acquisition of funds and accrual accounting systems.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulations: The sources of revenue to perform the functions in this administrative regulation are unrestricted current funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulations, 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 alternative, outsourcing these financial functions, was rejected because managing financial functions outside the system is not an efficient or effective way to operate the system.

(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. No detrimental effect on environment and public health would result if this administrative

regulation were not implemented.

(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 of proposed regulation if in conflict: Not in conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not in conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not used because all colleges and financial units will receive the financial management services provided by the system.

STATEMENT OF EMERGENCY 739 KAR 1:020E

This emergency administrative regulation delegates responsibility for financial management and reports. It is necessary to meet a deadline established by KRS 164A.560 in accordance with KRS 13A.190(1)(a)(3). KRS 164A.560 requires the Kentucky Community and Technical College System Board of Regents, as the governing board of a postsecondary educational institution, to promulgate administrative regulations in order to assume responsibility for financial management functions established by KRS 164A.565, 164A.570, 164A.575, 164A.610, and 164A.620. The Kentucky Community and Technical College System ("KCTCS"), as a new institution established by KRS 164.580, had no technology systems of its own and has been operating through the two (2), different financial systems of its parent institutions - the University of Kentucky and the Commonwealth. It is imperative for efficiency and effectiveness of operation that KCTCS assume responsibility for its own financial management services at the earliest possible date. On April 29, 1999, the design work for the new financial management system was complete to the point that a start-up date of July 1, 1999, for KCTCS to assume its financial management functions could be predicted with reasonable certainty. On that date, the KCTCS Board of Regents approved the promulgation of this emergency administrative regulation. The new system must be implemented on July 1, 1999, the beginning of the next fiscal year. Thus, an emergency administrative regulation is needed in order to meet the deadline mandated by state law in KRS 164A.560. This administrative regulation delegates to the KCTCS President responsibility for financial management and reports. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 739 KAR 1:020 was filed with the Regulations Compiler on June 22, 1999.

PAUL E. PATTON, Governor
MARTHA C. JOHNSON, Chair

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE Board of Regents

739 KAR 1:020E. Delegation of financial management responsibility.

RELATES TO: KRS 164A.560, 164A.565, 164A.570, 164A.575, 164A.620

STATUTORY AUTHORITY: KRS 164A.560

EFFECTIVE: June 22, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The governing boards of the public postsecondary institutions may elect to perform and delegate the responsibility for certain financial management functions by promulgating administrative regulations. This administrative regulation implements the provisions of KRS 164A.560 at the Kentucky Community and Technical College System.

Section 1. The Kentucky Community and Technical College System Board of Regents elects to delegate responsibility for the financial management provisions of KRS 164A.560, 164A.565, 164A.575, and 164A.620 to the president of the Kentucky Community and Technical College System. In addition the Kentucky Com-

munity and Technical College System Board of Regents delegates to the president responsibility for submitting to the State Property and Buildings Commission information and requests for approval of any bond project approved by the Board of Regents.

MARTHA C. JOHNSON, Chair
BEVERLY H. HAVERSTOCK, General Counsel
APPROVED BY AGENCY: June 16, 1999
FILED WITH LRC: June 22, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: 13 community colleges, 15 technical colleges and the system office of the Kentucky Community and Technical College System. Also, the business and personnel offices of the University of Kentucky and the Commonwealth.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

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

1. First year following implementation: Compliance, reporting, and paperwork requirements are the ordinary, necessary and usual requirements for the financial management operations of state colleges and universities regarding the acquisition of funds and accrual accounting systems.

2. Second and subsequent years: The same as the first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The costs of operating the financial management functions of the Kentucky Community and Technical College System are offset by the savings realized by bringing the functions in house as opposed to outsourcing the services.

2. Continuing costs or savings: The costs and savings will remain about the same on a continuing basis.

3. Additional factors increasing or decreasing costs: None are known at the present time, however, if there are new 2-year colleges added to the system or if there are new responsibilities added to administer in the future, there would be increased costs to the Kentucky Community and Technical College System.

(b) Reporting and paperwork requirements: Reporting, and paperwork requirements are the ordinary, necessary and usual requirements regarding the acquisition of funds and accrual accounting systems.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulations: The sources of revenue to perform the functions in this administrative regulation are unrestricted current funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulations, 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 alternative, outsourcing these financial functions, was rejected because managing financial functions outside the System is not an efficient or effective way to operate the System.

(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. No detrimental effect on environment and public health would result if this administrative regulation were not implemented.

(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 of proposed regulation if in conflict: Not in conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not in conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not used because all colleges and financial units will receive the financial management services provided by the system.

STATEMENT OF EMERGENCY 739 KAR 1:030E

This emergency administrative regulation delegates responsibility for annual, independent auditing of financial records. It is necessary to meet a deadline established by KRS 164A.560 in accordance with KRS 13A.190(1)(a)(3). KRS 164A.560 requires the Kentucky Community and Technical College System Board of Regents, as the governing board of a postsecondary educational institution, to promulgate administrative regulations in order to assume responsibility for financial management functions established by KRS 164A.565, 164A.570, 164A.575, 164A.610, and 164A.620. The Kentucky Community and Technical College System ("KCTCS"), as a new institution established by KRS 164.580, had no technology systems of its own and has been operating through the two (2), different financial systems of its parent institutions - the University of Kentucky and the Commonwealth. It is imperative for efficiency and effectiveness of operation that KCTCS assume responsibility for its own financial management services at the earliest possible date. On April 29, 1999, the design work for the new financial management system was complete to the point that a start-up date of July 1, 1999, for KCTCS to assume its financial management functions could be predicted with reasonable certainty. On that date, the KCTCS Board of Regents approved the promulgation of this emergency administrative regulation. The new system must be implemented on July 1, 1999, the beginning of the next fiscal year. Thus, an emergency administrative regulation is needed in order to meet the deadline mandated by state law in KRS 164A.560. This administrative regulation authorizes the audit functions to be performed by KCTCS in accordance with KRS 164A.570. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 739 KAR 1:030 was filed with the Regulations Compiler on June 22, 1999.

PAUL E. PATTON, Governor
MARTHA C. JOHNSON, Chair

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE Board of Regents

739 KAR 1:030E. Delegation of financial management responsibility.

RELATES TO: KRS 164A.570

STATUTORY AUTHORITY: KRS 164A.560

EFFECTIVE: June 22, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The governing boards of the public postsecondary institutions may elect to perform and delegate the responsibility for certain financial management functions by promulgating administrative regulations. This administrative regulation implements the provisions of KRS 164A.570 at the Kentucky Community and Technical College System.

Section 1. The Kentucky Community and Technical College System Board of Regents elects to engage a qualified firm of certified public accounts for the purpose of submitting an independent opinion concerning the internal accounting controls and compliance with the provisions of KRS 164A.560, 164A.565, 164A.575, and 164A.620. The engagement of the qualified firm, scope of the audit, and report of findings shall be in accordance with the provisions of KRS 164A.570.

MARTHA C. JOHNSON, Chair

BEVERLY H. HAVERSTOCK, General Counsel

APPROVED BY AGENCY: June 16, 1999

FILED WITH LRC: June 22, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: 13 community colleges, 15 technical colleges and the system office of the Kentucky Community and Technical College System. Also, the business and personnel offices of the University of Kentucky and the Commonwealth.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

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

1. First year following implementation: Compliance, reporting, and paperwork requirements are the ordinary, necessary and usual requirements for the financial management operations of state colleges and universities regarding the acquisition of funds and accrual accounting systems.

2. Second and subsequent years: The same as the first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The costs of operating the financial management functions of the Kentucky Community and Technical College System are offset by the savings realized by bringing the functions in house as opposed to outsourcing the services.

2. Continuing costs or savings: The costs and savings will remain about the same on a continuing basis.

3. Additional factors increasing or decreasing costs: None are known at the present time, however, if there are new 2-year colleges added to the system or if there are new responsibilities added to administer in the future, there would be increased costs to the Kentucky Community and Technical College System.

(b) Reporting and paperwork requirements: Reporting, and paperwork requirements are the ordinary, necessary and usual requirements regarding the acquisition of funds and accrual accounting systems.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulations: The sources of revenue to perform the functions in this administrative regulation are unrestricted current funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulations, 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 alternative, outsourcing these financial

functions, was rejected because managing financial functions outside the System is not an efficient or effective way to operate the System.

(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. No detrimental effect on environment and public health would result if this administrative regulation were not implemented.

(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 of proposed regulation if in conflict: Not in conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not in conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not used because all colleges and financial units will receive the financial management services provided by the system.

STATEMENT OF EMERGENCY **739 KAR 1:040E**

In this emergency administrative regulation, the Kentucky Community and Technical College Board of Regents elects to assume responsibility for financial functions involved with purchasing. It is necessary to meet a deadline established by KRS 164A.560 in accordance with KRS 13A.190(1)(a)(3). KRS 164A.560 requires the Kentucky Community and Technical College System Board of Regents, as the governing board of a postsecondary educational institution, to promulgate administrative regulations in order to assume responsibility for financial management functions established by KRS 164A.565, 164A.570, 164A.575, 164A.610, and 164A.620. The Kentucky Community and Technical College System ("KCTCS"), as a new institution established by KRS 164.580, had no technology systems of its own and has been operating through the two (2), different financial systems of its parent institutions - the University of Kentucky and the Commonwealth. It is imperative for efficiency and effectiveness of operation that KCTCS assume responsibility for its own financial management services at the earliest possible date. On April 29, 1999, the design work for the new financial management system was complete to the point that a start-up date of July 1, 1999, for KCTCS to assume its financial management functions could be predicted with reasonable certainty. On that date, the KCTCS Board of Regents approved the promulgation of this emergency administrative regulation. The new system must be implemented on July 1, 1999, the beginning of the next fiscal year. Thus, an emergency administrative regulation is needed in order to meet the deadline mandated by state law in KRS 164A.560. This administrative regulation delegates to the KCTCS President responsibility for purchasing certain goods and services, including, contractual services, rentals, supplies, materials, equipment, and printing. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 739 KAR 1:040 was filed with the Regulations Compiler on June 22, 1999.

PAUL E. PATTON, Governor
MARTHA C. JOHNSON, Chair

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE **Board of Regents**

739 KAR 1:040E. Delegation of financial management responsibility.

RELATES TO: KRS 164A.575

STATUTORY AUTHORITY: KRS 164A.560

EFFECTIVE: June 22, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The governing boards of the public postsecondary institutions may elect to perform

and delegate the responsibility for certain financial management functions by promulgating administrative regulations. This administrative regulation implements the provisions of KRS 164A.575 at the Kentucky Community and Technical College System.

Section 1. The Kentucky Community and Technical College System Board of Regents, under the provisions of KRS 164A.560, elects to purchase and manage interests in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services in accordance with Sections (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), and (12) of KRS 164A.575 with the exception of real property leases.

MARTHA C. JOHNSON, Chair

BEVERLY H. HAVERSTOCK, General Counsel

APPROVED BY AGENCY: June 16, 1999

FILED WITH LRC: June 22, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: 13 community colleges, 15 technical colleges and the system office of the Kentucky Community and Technical College System. Also, the business and personnel offices of the University of Kentucky and the Commonwealth.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

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

1. First year following implementation: Compliance, reporting, and paperwork requirements are the ordinary, necessary and usual requirements for the financial management operations of state colleges and universities regarding the acquisition of funds and accrual accounting systems.

2. Second and subsequent years: The same as the first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The costs of operating the financial management functions of the Kentucky Community and Technical College System are offset by the savings realized by bringing the functions in house as opposed to outsourcing the services.

2. Continuing costs or savings: The costs and savings will remain about the same on a continuing basis.

3. Additional factors increasing or decreasing costs: None are known at the present time, however, if there are new 2-year colleges added to the system or if there are new responsibilities added to administer in the future, there would be increased costs to the Kentucky Community and Technical College System.

(b) Reporting and paperwork requirements: Reporting, and paperwork requirements are the ordinary, necessary and usual requirements regarding the acquisition of funds and accrual accounting systems.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulations: The sources of revenue to perform the functions in this administrative regulation are unrestricted current funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulations, 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 alternative, outsourcing these financial functions, was rejected because managing financial functions outside the system is not an efficient or effective way to operate the system.

(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. No detrimental effect on environment and public health would result if this administrative regulation were not implemented.

(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 of proposed regulation if in conflict: Not in conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not in conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not used because all colleges and financial units will receive the financial management services provided by the system.

STATEMENT OF EMERGENCY 739 KAR 1:050E

This emergency administrative regulation assumes responsibility for forming affiliated corporations. It is necessary to meet a deadline established by KRS 164A.560 in accordance with KRS 13A.190(1)(a)(3). KRS 164A.560 requires the Kentucky Community and Technical College System Board of Regents, as the governing board of a postsecondary educational institution, to promulgate administrative regulations in order to assume responsibility for financial management functions established by KRS 164A.565, 164A.570, 164A.575, 164A.610, and 164A.620. The Kentucky Community and Technical College System ("KCTCS"), as a new institution established by KRS 164.580, had no technology systems of its own and has been operating through the two (2), different financial systems of its parent institutions - the University of Kentucky and the Commonwealth. It is imperative for efficiency and effectiveness of operation that KCTCS assume responsibility for its own financial management services at the earliest possible date. On April 29, 1999, the design work for the new financial management system was complete to the point that a start-up date of July 1, 1999, for KCTCS to assume its financial management functions could be predicted with reasonable certainty. On that date, the KCTCS Board of Regents approved the promulgation of this emergency administrative regulation. The new system must be implemented on July 1, 1999, the beginning of the next fiscal year. Thus, an emergency administrative regulation is needed in order to meet the deadline mandated by state law in KRS 164A.560. This administrative regulation assumes responsibility for affiliated corporations. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 739 KAR 1:050 was filed with the Regulations Compiler on June 22, 1999.

PAUL E. PATTON, Governor
MARTHA C. JOHNSON, Chair

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE Board of Regents

739 KAR 1:050E. Delegation of financial management responsibility.

RELATES TO: KRS 164A.610

STATUTORY AUTHORITY: KRS 164A.560

EFFECTIVE: June 22, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The governing

boards of the public postsecondary institutions may elect to perform and delegate the responsibility for certain financial management functions by promulgating administrative regulations. This administrative regulation implements the provisions of KRS 164A.610 at the Kentucky Community and Technical College System.

Section 1. The Kentucky Community and Technical College System Board of Regents, under the provisions of KRS 164A.560, elects to organize and operate one (1) or more affiliated corporations in accordance with KRS 164A.610.

MARTHA C. JOHNSON, Chair
BEVERLY H. HAVERSTOCK, General Counsel
APPROVED BY AGENCY: June 16, 1999
FILED WITH LRC: June 22, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: 13 community colleges, 15 technical colleges and the system office of the Kentucky Community and Technical College System. Also, the business and personnel offices of the University of Kentucky and the Commonwealth.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

(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: There are no known costs or savings in the geographical areas affected by the implementation of this administrative regulation.

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

1. First year following implementation: Compliance, reporting, and paperwork requirements are the ordinary, necessary and usual requirements for the financial management operations of state colleges and universities regarding the acquisition of funds and accrual accounting systems.

2. Second and subsequent years: The same as the first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The costs of operating the financial management functions, including affiliated corporations, of the Kentucky Community and Technical College System are offset by the savings realized by bringing the functions in house as opposed to outsourcing the services.

2. Continuing costs or savings: The costs and savings will remain about the same on a continuing basis.

3. Additional factors increasing or decreasing costs: None are known at the present time, however, if there are new 2-year colleges added to the system or if there are new responsibilities added to administer in the future, there would be increased costs to the Kentucky Community and Technical College System.

(b) Reporting and paperwork requirements: Reporting, and paperwork requirements are the ordinary, necessary and usual requirements regarding the acquisition of funds and accrual accounting systems.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulations: The sources of revenue to perform the functions in this administrative regulation are unrestricted current funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulations, 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 alternative, outsourcing these financial functions, was rejected because managing financial functions outside the system is not an efficient or effective way to operate the system.
- (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. No detrimental effect on environment and public health would result if this administrative regulation were not implemented.
 - (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 of proposed regulation if in conflict: Not in conflict.
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not in conflict.
- (10) Any additional information or comments: None
- (11) TIERING: Is tiering applied? Tiering is not used because all colleges and financial units will receive the financial management services provided by the system.

STATEMENT OF EMERGENCY
806 KAR 17:205E

This emergency administrative regulation establishes the standards that insurance underwriters will be required to use to designate the severity of each high-cost condition in order to determine whether an individual is eligible for GAP participation. The department previously promulgated this administrative regulation as an emergency under 806 KAR 17:200E. Subsequent to the promulgation of 806 KAR 17:200E, the department held many meetings with parties interested in the terms and the administration of the administrative regulation. The contents of this emergency administrative regulation represent the understanding between the interested parties and the department. This administrative regulation is being promulgated as an emergency because it identifies the high-cost condition codes and incorporates the high-cost condition questionnaire. It is necessary that the codes and questionnaire be in place immediately so that insurers may identify persons who are eligible to participate in the Guaranteed Acceptance Program. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance

806 KAR 17:205E. High-cost condition codes and severity questionnaire.

RELATES TO: KRS 304.17A-005(19)
STATUTORY AUTHORITY: KRS 304.17A-005(19)(b)
EFFECTIVE: June 24, 1999
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.17A-005(19) requires the commissioner to establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost. To identify a high-cost condition of an individual who is a Guaranteed Acceptance Program qualified individual, the commissioner is required to use the most recent version of the "International Classification of Diseases." This administrative regulation establishes the high-cost condition codes in accordance with KRS 304.17A-005(19) and the method for scoring the severity of a high-cost condition.

Section 1. Definitions. (1) "Certified medical statement" means:

- (a) A medical record signed by a health care professional; or
- (b) A written statement from a healthcare professional.
- (2) "Commissioner" is defined by KRS 304.1-050.
- (3) "Guaranteed Acceptance Program" or "(GAP)" is defined by KRS 304.17A-005(14).
- (4) "GAP participant" means a GAP qualified individual defined in KRS 304.17A-005(15) who has been issued a GAP health benefit plan.
- (5) "Guaranteed Acceptance Program participating insurer" is defined by KRS 304.17A-005(12).
- (6) "Guaranteed Acceptance Program qualified individual" is defined by KRS 304.17A-005(15).
- (7) "Healthcare professional" means a healthcare practitioner who:
 - (a) Is licensed to diagnose and treat a high-cost condition in the state in which the healthcare practitioner is practicing; and
 - (b) Has within his statutory scope of practice the authority to diagnose and treat a high-cost condition.
- (8) "High-cost condition" is defined by KRS 304.17A-005(19)(a).
- (9) "High-cost condition code" means a disease or procedure code identified in the ICD-9-CM that represents a high-cost condition.
- (10) "High-cost Condition Severity Questionnaire" means a questionnaire that is based upon national medical insurance underwriting guidelines and which, upon completion and proper scoring, is a determinant of whether an individual has a high-cost condition of such severity as to qualify as a GAP participant.
- (11) "ICD-9-CM" means the International Classification of Diseases, Ninth Revision, Clinical Modification.

Section 2. High-cost Condition Codes. (1) A GAP participating insurer shall issue a health benefit plan to a GAP qualified individual if the individual:

- (a) Completes an application for an individual health benefit plan with a GAP participating insurer;
- (b) Is identified as having a high-cost condition as evidenced by the following:
 - 1. A certified medical statement; and
 - 2. A score of 200 or more points on a completed and scored High-Cost Condition Severity Questionnaire that shall be administered by a GAP participating insurer. The High-Cost Condition Severity Questionnaire is incorporated by reference into this administrative regulation; and
- (c) Has paid the applicable premium for an individual health benefit plan.
- (2) A high-cost condition code shall be the code that is identified in Appendix A to this administrative regulation and that relates to a specified high-cost condition listed in KRS 304.17A-005(19)(c).
- (3) A person may annually submit a recommendation for modification of the list of high-cost condition codes as established in Appendix A of this administrative regulation
- (4) A recommendation for modification of the list of high-cost condition codes made pursuant to subsection (3) of this section, shall:
 - (a) Be in writing;
 - (b) Be received by the commissioner on or before the first business day of March of each year; and
 - (c) Contain the following information:
 - 1. A detailed reason for the requested modification; and
 - 2. Credible evidence to support the necessity of the requested modification.

Section 3. High-Cost Condition Severity Questionnaire. Upon written approval by the commissioner, a GAP participating insurer may utilize its application for individual health benefit plan coverage in lieu of Part 1 of the High-Cost Condition Severity Questionnaire.

Section 4. Incorporated by Reference. (1) "High-Cost Condition Severity Questionnaire" (1999 Edition), Department of Insurance, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

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APPENDIX A

Acquired immune deficiency syndrome: 042; 079.53;
 Angina pectoris: 411.1; 413.0; 413.1; 413.9;
 Ascites: 789.5;
 Chemical dependency: 304.00; 304.01; 304.10; 304.11; 304.12;
 304.20; 304.21; 304.30; 304.40; 304.41; 304.50; 304.51; 304.60;
 304.61; 304.70; 304.71; 304.80; 304.81; 304.90; 304.91;
 Cirrhosis of the liver: 571.0; 571.1; 571.2; 571.3; 571.5; 571.6;
 Coronary insufficiency: 410.00; 410.01; 410.02; 410.10; 410.11;
 410.12; 410.20; 410.21; 410.22; 410.30; 410.31; 410.32; 410.40;
 410.41; 410.42; 410.50; 410.51; 410.52; 410.60; 410.61; 410.62;
 410.70; 410.71; 410.72; 410.80; 410.81; 410.82; 410.90; 410.92;
 411.0; 411.1; 411.89; 412; 414.00; 414.01; 414.02; 414.03; 414.04;
 414.05; 414.8; 414.9; 414.10; 414.11; 414.19;
 Coronary occlusion: 410.00; 410.01; 410.02; 410.10; 410.11;
 410.12; 410.20; 410.21; 410.22; 410.30; 410.31; 410.32; 410.40;
 410.41; 410.42; 410.50; 410.51; 410.52; 410.60; 410.61; 410.62;
 410.70; 410.71; 410.72; 410.80; 410.81; 410.82; 410.90; 410.91;
 410.92; 411.81;
 Cystic fibrosis: 277.0; 277.00; 277.01;
 Friedreich's ataxia: 334.0;
 Hemophilia: 286.0; 286.1; 286.2; 286.3; 286.4;
 Hodgkin's disease: V10.72; 201.00; 201.43; 201.50; 201.51;
 201.52; 201.53; 201.54; 201.55; 201.56; 201.57; 201.58; 201.90;
 201.91; 201.92; 201.93; 201.94; 201.95; 201.96; 201.97; 201.98;
 Huntington's chorea: 333.4;
 Juvenile diabetes: 250.01; 250.03; 250.11; 250.13; 250.21;
 250.31; 250.33; 250.41; 250.43; 250.51; 250.53; 250.61; 250.63;
 250.71; 250.73; 250.81; 250.83; 250.91; 250.93;
 Leukemia: V10.61; V10.62; V10.63; V10.69; 202.40; 202.41;
 202.42; 202.43; 202.44; 202.45; 202.46; 202.47; 202.48; 204.00;
 204.01; 204.10; 204.11; 204.20; 204.21; 204.80; 204.90; 204.91;
 205.00; 205.01; 205.10; 205.11; 205.20; 205.21; 205.30; 205.31;
 205.80; 205.81; 205.90; 205.91; 206.00; 206.01; 206.10; 206.11;
 206.20; 206.21; 206.80; 206.81; 206.90; 206.91; 207.00; 207.01;
 207.10; 207.11; 207.20; 207.21; 207.80; 207.81; 208.00; 208.01;
 208.10; 208.11; 208.20; 208.21; 208.80; 208.81; 208.90; 208.91;
 Metastatic cancer: 196.0; 196.1; 196.2; 196.3; 196.5; 196.6;
 196.8; 196.9; 197.0; 197.1; 197.2; 197.3; 197.4; 197.5; 197.6; 197.7;
 197.8; 198.0; 198.1; 198.2; 198.3; 198.4; 198.5; 198.6; 198.7;
 198.81; 198.82; 198.89; 199.0; 199.1;
 Motor or sensory aphasia: 315.31; 315.32; 784.3;
 Multiple sclerosis: 340;
 Muscular dystrophy: 359.0; 359.1;
 Myasthenia gravis: 358.0;
 Myotonia: 359.2;
 Open heart surgery: disease codes - V15.1; V42.1; V42.2;
 V43.2; V43.3; V45.81;
 Open heart surgery: procedure codes - 33.6; 35.10; 35.11;
 35.12; 35.13; 35.14; 35.20; 35.21; 35.22; 35.23; 35.24; 35.25; 35.26;
 35.27; 35.28; 35.31; 35.32; 35.33; 35.34; 35.35; 35.39; 35.42; 35.50;
 35.51; 35.53; 35.54; 35.60; 35.61; 35.62; 35.63; 35.70; 35.71; 35.72;
 35.73; 35.81; 35.82; 35.83; 35.84; 35.91; 35.92; 35.93; 35.94; 35.95;
 35.98; 35.99; 36.03; 36.10; 36.11; 36.12; 36.13; 36.14; 36.15; 36.16;
 36.17; 36.19; 36.2; 36.3; 36.91; 36.99; 37.10; 37.11; 37.31; 37.32;
 37.33; 37.35; 37.4; 37.5; 37.6; 37.61; 37.62; 38.14;
 Parkinson's disease: 332.0; 332.1;
 Polycystic kidney: 593.2; 753.10; 753.11; 753.12; 753.13;
 753.16; 753.17; 753.19;
 Psychotic disorder: 291.0; 291.8; 292.0; 292.2; 292.9; 292.11;
 292.12; 292.81; 292.82; 292.83; 292.84; 292.89; 293.0; 293.83;
 293.89; 293.9; 294.0; 294.1; 294.8; 294.9; 295.00; 295.01; 295.03;
 295.04; 295.10; 295.11; 295.13; 295.14; 295.20; 295.21; 295.23;
 295.24; 295.30; 295.31; 295.33; 295.34; 295.40; 295.41; 295.43;
 295.44; 295.50; 295.51; 295.53; 295.54; 295.60; 295.61; 295.63;
 295.64; 295.70; 295.71; 295.73; 295.74; 295.80; 295.81; 295.83;
 295.84; 295.90; 295.91; 295.93; 295.94; 296.00; 296.01; 296.02;
 296.03; 296.04; 296.10; 296.11; 296.12; 296.13; 296.14; 296.20;
 296.21; 296.22; 296.23; 296.24; 296.30; 296.31; 296.32; 296.33;
 296.34; 296.40; 296.41; 296.42; 296.43; 296.44; 296.50; 296.51;
 296.52; 296.53; 296.54; 296.60; 296.61; 296.62; 296.63; 296.64;
 296.7; 296.80; 296.81; 296.82; 296.89; 296.90; 296.99; 297.1;

297.9; 298.0; 298.1; 298.2; 298.3; 298.4; 298.8; 298.9; 299.00;
 299.01; 299.10; 299.11; 299.80; 299.81; 299.90; 299.91;
 Quadriplegia: 343.2; 344.00; 344.01; 344.02; 344.03; 344.04;
 344.09;
 Stroke: 436; 997.02;
 Syringomyelia: 336.0; and
 Wilson's disease: 275.1.

GEORGE NICHOLS III, Commissioner
 RONALD B. MCCLOUD, Secretary
 GALE PEARCE, General Counsel

APPROVED BY AGENCY: June 17, 1999

FILED WITH LRC: June 24, 1999 at 3 p.m.

CONTACT PERSON: Sharron S. Burton, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, PH: (502) 564-1936, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact person: Sharron S. Burton

(1) Type and number of entities affected: This administrative regulation affects the approximately 1900 insurers and health maintenance organizations authorized to write health insurance in the state of Kentucky. In addition, this administrative regulation affects every individual who, within the previous 3 years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition. This administrative regulation will also affect each individual who may, in the future, be diagnosed with a high-cost condition. The number of individuals who have been diagnosed or who will be diagnosed with a high-cost condition cannot be determined by the department.

(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: The department has received no public comments regarding this issue.

(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 department has received no public comments regarding this issue.

(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 a Guaranteed Acceptance Program ("GAP") participating insurer to issue coverage to each individual who has been diagnosed or certified by a health care professional as having a high-cost condition that corresponds to the ICD-9-CM codes and severity levels identified in the administrative regulation.

2. Second and subsequent years: GAP participating insurers will be required to issue coverage to each individual who has been diagnosed or certified by a health care professional as having a high-cost condition that corresponds to the ICD-9-CM codes and severity levels identified in this administrative regulation for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The department's primary responsibility with respect to this administrative regulation will be the enforcement of its provisions. The department may incur some expenses for information systems development and administering the GAP program.

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: The department does not anticipate that there will be any effect on state and local revenues caused by the implementation of this administrative regulation.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the department of Insurance will be used to implement and enforce this administrative 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: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.17A-005(19) requires the commissioner to establish, by administrative regulation, uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using codes in the most recent version of the "International Classification of Diseases," and a national underwriting guide questionnaire. For this reason, no other alternatives were considered.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will enable GAP participating insurers to identify those medical conditions that are considered to be high-cost by using the established severity codes and the high-cost condition severity questionnaire.

(b) State whether a detrimental effect on environment and public health would result if not implemented: If this administrative regulation were not implemented, a detrimental effect on public health would result.

(c) If detrimental effect would result, explain detrimental effect: If this administrative regulation were not implemented there would be no severity rating for high-cost conditions. Absent the severity rating, there is a potential that an individual with a high-cost condition may not be eligible for GAP participation, and thus unable to afford health insurance.

(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 does not apply since this administrative regulation applies to all GAP participating insurers issuing health benefit plans in Kentucky. With respect to individuals, tiering does not apply since this administrative regulation applies to every individual who, within the previous 3 years, has been diagnosed with or treated for a high-cost condition, or has had benefits paid under a health benefit plan for a high-cost condition or who may, in the future, be diagnosed with a high-cost condition.

STATEMENT OF EMERGENCY 907 KAR 1:011E

This emergency administrative regulation is being promulgated to add eligible children whose income is at or below 150 percent of the federal poverty level through the Kentucky Children's Health Insurance Program (KCHIP) Medicaid expansion. This action must be taken on an emergency basis to allow children living in poverty to access needed medical services, which they currently cannot receive due to the inability to pay either for private insurance or for the services. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of low-income children due to their inability to access needed medical services. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JOHN H. MORSE, Secretary

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Member and Provider Services

907 KAR 1:011E. Technical eligibility requirements.

RELATES TO: KRS 205.520, 341.360, 42 CFR 435, 403, 45 CFR 233.100, 8 USC 1612, 1641, 38 USC 101, 107, 1304, 5303A, 42 USC 402, 416, 423, 1382c, 1383c, 1395i, 1396a

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, [194.050;] 205.520, 205.6481-205.6497, 42 USC 1397aa et seq. [1998-Ky. Acts ch. 426, sec. 4(3)]

EFFECTIVE: July 2, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520 authorizes 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 establishes the technical eligibility requirements of the Medicaid Program.

Section 1. Definitions. (1) "Child" means a dependent person who:

(a) 1. Is under the age of eighteen (18); or

2. Is under age nineteen (19) if the person is:

a. A full-time student in a secondary school or the equivalent level of vocational or technical training; and

b. Expected to complete the program before age nineteen (19);

(b) Is not self-supporting;

(c) Is not a member of the Armed Forces of the United States; and

(d) If previously emancipated by marriage, has returned to the home of his parents, or to the home of another relative.

(2) "Kentucky Transitional Assistance Program (K-TAP)" means Kentucky's version of the federal block grant program of Temporary Assistance for Needy Families (TANF) Program, a money payment program for children who are deprived of parental support or care due to:

(a) Death;

(b) Continued voluntary or involuntary absence;

(c) Physical or mental incapacity of one (1) parent or step-parent if two (2) parents are in the home; or

(d) Unemployment of one (1) parent if both parents are in the home.

(3) "Minor teenage parent" means an individual who:

(a) Has not attained eighteen (18) years of age;

(b) Is not married; and

(c) Has a minor child in his care.

(4) "Qualified alien" is defined in 8 USC 1641(a) through (c).

(5) "Veteran" is defined by 38 USC 101(2).

Section 2. The Categorically Needy. An individual receiving Title IV-E benefits, Supplemental Security Income, Optional or Mandatory State Supplementation shall be eligible for Medicaid as a categorically needy individual. In addition, the following classifications of needy persons shall be included in the program as categorically needy and thus eligible for Medicaid participation.

(1) A child in a foster family care or private nonprofit child caring institution dependent in whole or in part on a governmental or private agency;

(2) A child in a psychiatric hospital, psychiatric residential treatment facility, or medical institution for the mentally retarded;

(3) A pregnant woman;

(4) A child of unemployed parents;

(5) A child in a subsidized adoption dependent in whole or in part on a governmental agency;

(6) A family which correctly received Medicaid for three (3) of the last six (6) calendar months and would have been terminated from receipt of AFDC using AFDC methodologies in effect on July 16, 1996 as a result of new or increased collection of child or spousal support shall be eligible for extended Medicaid coverage for four (4) consecutive calendar months beginning with the first month the family would have been ineligible for AFDC.

(7) A family which would have been terminated from AFDC as-

sistance using the AFDC methodologies in effect on July 16, 1996 because of increased earnings, hours of employment or loss of earnings disregards;

(8) A child (but not his parents) who:

(a) Would have been financially eligible for Aid to Families with Dependent Children benefits using the AFDC methodologies in effect on July 16, 1996; and

(b) Meets the definition of Section 1(1) of this administrative regulation;

(9) A child born to a woman eligible for and receiving Medicaid shall be eligible for Medicaid as of the date of his birth if:

(a) The child:

1. Has not reached his first birthday; and
2. Resides in the household of the woman; and

(b) The woman remains (or would remain if pregnant) eligible for the assistance;

(10)(a) Except as provided in paragraph (c) of this subsection, an individual in an institution meeting appropriate patient status criteria who (if not institutionalized) would not be eligible for supplemental security income (SSI) or optional state supplementation benefits due to income shall be eligible under a special income level which is set at 300 percent of the SSI benefit amount payable for an individual with no income.

(b) Except as provided in paragraph (c) of this subsection, eligibility for a similar hospice participant or similar participant in a waiver project of home and community based services for the mentally retarded or the aged, blind or disabled shall be determined using the method established in paragraph (a) of this subsection.

(c) Eligibility of an individual whose gross income exceeds 300 percent of the ~~previously specified~~ SSI benefit amount identified in paragraph (a) of this subsection shall not be determined in accordance with this subsection;

(11) A qualified severely impaired individual as specified in 42 USC 1396a(a)(10)(A)(i)(II) and 1396d (to the extent the coverage is mandatory in this state);

(12) An individual who loses SSI eligibility but would be eligible for SSI benefits except for entitlement to or an increase in child's insurance benefits based on disability as specified in 42 USC 1383c;

(13) An individual specified in 42 USC 1383c who:

(a) Loses SSI or state supplementation payments as a result of receipt of benefits pursuant to ~~under~~ 42 USC 402(e) or (f);

(b) Would be eligible for SSI or SSP except for these benefits; and

(c) Is not entitled to hospital insurance benefits under the Medicare program;

(14) A woman during pregnancy (and as though pregnant through the end of the month containing the 60th day of a period beginning on the last day of pregnancy) or a child under six (6) years of age, as specified in 42 USC 1396a(l)(1), shall ~~be required to~~ meet the income requirements for this eligibility group as specified in 907 KAR 1:640;

(15) If an eligible child is receiving covered inpatient services on a birthday which will make him ineligible due to age, the child shall remain eligible until the end of the stay for which the covered inpatient services are furnished if the child remains otherwise eligible except for age;

(16) Applicable with regard to a determination of eligibility for a period beginning on or after July 1, 1991, a child born after September 30, 1983, who has attained six (6) years of age but has not attained nineteen (19) years of age as specified in 42 USC 1396a(l)(1) shall meet the income requirements for this eligibility group as established in 907 KAR 1:640;

(17) Applicable with regard to a determination of eligibility for a period beginning on or after July 1, 1998, if federal Medicaid matching funds are available to cover the costs of the program, a child born on or before September 30, 1983 who has not attained the age of nineteen (19) years as specified in 42 USC 1396a(l)(1) shall meet the income requirements for this eligibility group as established in 907 KAR 1:640;

(18) Applicable with regard to a determination of eligibility for a period beginning on or after July 1, 1999, if federal Medicaid matching funds are available to cover the costs of the program, an optional targeted low income child as established in 907 KAR 4:020, Section 2(1) who has not attained the age of nineteen (19) years as specified in 42 USC 1396a(l)(1) shall meet the income requirements for

this eligibility group as established in 907 KAR 1:640;

(19) Applicable with regard to a determination of eligibility for a period beginning on or after January 1, 1991, a disabled widow, widower or disabled surviving divorced spouse, who would be eligible for SSI except for entitlement to an old-age, survivors, or disability insurance (OASDI) benefit resulting from a change in the definition of disability;

(20) ~~[(19)]~~ A child who:

(a) Was receiving supplemental security income on August 22, 1996; and

(b) Except for the change in definition of childhood disability would continue to receive supplemental security income; or

(21) ~~[(20)]~~ A person with hemophilia who would be eligible for supplemental security income except he received a settlement in a class action lawsuit entitled "Factor VIII or IX Concentrate Blood Products Litigation".

Section 3. The Medically Needy. An individual (including a child pursuant to Section 2(8) of this administrative regulation) or a pregnant woman meeting the income and resource standards of the medically needy program established in 907 KAR 1:640 and 907 KAR 1:645 meeting technical requirements comparable to the categorically needy group identified in Section 2 of this administrative regulation, who has sufficient income to meet his basic maintenance needs may apply for Medicaid with need determined in accordance with the income and resource standards established in 907 KAR 1:640 through 907 KAR 1:665. The medically needy eligible groups shall include:

(1) A pregnant woman during the course of her pregnancy; and

(2) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance, shall continue to be eligible as though she were pregnant until the end of the month containing the 60th day of a period beginning on the last day of her pregnancy (i.e., the day on which her child is born or the pregnancy is otherwise terminated).

Section 4. Qualified Medicare Beneficiaries, Qualified Disabled Working Individuals, Specified Low-Income Medicare Beneficiaries and Medicare Qualified Individuals (QI). (1) Coverage shall be extended to a qualified Medicare beneficiary as specified in 42 USC 1396a(a)(10)(E), subject to the income as shown in 907 KAR 1:640, and resource limitations shown in 907 KAR 1:645, and for the scope of benefits specified in 907 KAR 1:006. A qualified Medicare beneficiary shall:

(a) Be eligible for and receiving Medicare Part A benefits;

(b) Be determined eligible for benefits as a qualified Medicare beneficiary eligible individual effective for the month after the month in which the determination is made; and

(c) Not be eligible for benefits as a qualified Medicare beneficiary eligible individual:

1. Retroactively; or

2. For the month in which the determination was made.

(2) A qualified disabled working individual as defined in 42 USC 1396d(s) shall be eligible under Medicaid for payment of his Medicare Part A premiums as established [shown] in 907 KAR 1:006.

(3) A specified low-income Medicare beneficiary as defined in 42 USC 1396a(a)(10)(E)(iii) shall be eligible under Medicaid for payment of the Medicare Part B premiums.

(4) A Medicare qualified individual group 1 (QI-1) as established in 42 USC 1396a(a)(10)(E)(iv)(I) shall be eligible for payment of all of the Medicare Part B premium.

(5) A Medicare qualified individual group 2 (QI-2) as established in 42 USC 1396a(a)(10)(e)(iv)(II) shall be eligible for payment of that portion of the Medicare Part B premium attributable to home health costs.

Section 5. Technical Eligibility Requirements. The technical eligibility factors for a family or individual included as categorically needy under Section 2 of this administrative regulation or as medically needy under Section 3 of this administrative regulation shall be:

(1) A child in foster care, a private institution, psychiatric hospital, psychiatric residential treatment facility, or mental retardation institution shall meet the definition in ~~[of]~~ Section 1(1) of this administrative regulation;

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(2) Except as provided by Section 2 of this administrative regulation, a pregnant woman shall be eligible upon medical proof of pregnancy;

(3) At the time of application unemployment relating to eligibility of both parents and children shall be determined using the following criteria [include]:

(a) ~~[Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if:~~

1. ~~The work is intermittent; and~~

2. ~~The excess is of a temporary nature as evidenced by the fact that the individual:~~

a. ~~Was under the 100-hour standard for the prior two (2) months; and~~

b. ~~Is expected to be under the standard during the next month;~~

(b) ~~The individual:~~

1. ~~Has prior labor market attachment consisting of earned income of at least fifty (50) dollars during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application; or~~

2. ~~Within twelve (12) months prior to application a parent received unemployment compensation; or~~

(b) ~~A parent [(c) The individual] is [currently] receiving or has been found ineligible for unemployment compensation; and~~

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

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

(4) ~~[Pursuant to subsection (3) of this section, a parent shall not be considered as unemployed if he is:~~

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

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

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

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

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

(5) ~~An aged individual shall be at least sixty-five (65) years of age;~~

(5) ~~[(6)] A blind individual shall meet the definition of blindness as contained in 42 USC 416 and 42 USC 1382c relating to retirement, survivors, and disability insurance (RSDI) or supplemental security income (SSI);~~

(6) ~~[(7)] A disabled individual shall meet the definition of permanent and total disability as contained in 42 USC 423(d) and 42 USC 1382c(a)(3) relating to RSDI and SSI;~~

(7) ~~[(8)] Using AFDC methodologies in effect on July 16, 1996, a family who loses Medicaid eligibility solely because of increased earnings or hours of employment of the caretaker relative or loss of earnings disregards may receive up to twelve (12) months of extended medical assistance for family members included in the medical assistance unit prior to losing Medicaid eligibility. The extended medical assistance shall be divided into two (2) transitional six (6) month benefit periods. The family shall meet the eligibility and reporting requirements for each transitional benefit period established in this subsection.~~

(a) The first transitional six (6) month benefit period shall begin with the month the family would have become ineligible for AFDC using AFDC methodologies in effect on July 16, 1996.

1. To be eligible for this transitional benefit period, the family shall:

a. Have correctly received Medicaid assistance in three (3) of the six (6) months immediately preceding the month the family would have become ineligible for AFDC using AFDC methodologies in effect on July 16, 1996;

b. Have a dependent child living in the home; and

c. Meet the reporting requirements relating to earnings and child care costs no later than the 21st day of the fourth month.

2. If the family no longer has a dependent child living in the home, medical assistance shall be terminated the last day of the month the

family no longer includes a dependent child.

3. If the reporting requirements are not met, the Medicaid benefits shall be denied for the second transitional six (6) month benefit period.

(b)1. To continue to receive Medicaid for the optional second transitional six (6) month benefit period, the family shall meet the following conditions:

a. Received medical assistance for the entire first transitional six

(6) month period and met the reporting requirements;

b. Have a dependent child living in the home;

c. Gross income minus child care cost shall be less than 185 percent of the federal poverty income level;

d. The reporting requirements shall have been met no later than the 21st day of the fourth month, the seventh month, and the tenth month; and

e. During the immediately preceding three (3) months, the caretaker relative shall have been:

(i) Employed; or

(ii) If unemployed in one (1) or more months, unemployed due to involuntary loss of employment, illness or other good cause established to the satisfaction of the Medicaid program.

2. If a family no longer has a dependent child living in the home, Medicaid shall be terminated the last day of the month the family no longer includes a dependent child.

3. If the family's income exceeds the income standard or the family does not meet the reporting requirements, except for good cause established to the satisfaction of the Medicaid program, the medical assistance shall be terminated the last day of the appropriate reporting month.

(c) Good cause shall exist under the following circumstances:

1. The specified relative was out-of-town for the reporting month;

2. An immediate family member living in the home was institutionalized or died during the reporting month;

3. The assistance group was the victim of a natural disaster including a flood, storm, earthquake or serious fire; or

4. The assistance group moved and reported the move timely, but the move resulted in a delay in receiving or failure to receive the transitional medical assistance report form;

(8) ~~[(9)] A parent, including a natural or adoptive parent, may be included for assistance in the case of a family with a child.~~

(a) If a parent is not included in the case, one (1) other caretaker relative may be included to the same extent he would have been eligible in the Aid to Families with Dependent Children Program using the AFDC methodology in effect on July 16, 1996.

(b) A caretaker relative shall include:

1. Grandfather;

2. Grandmother;

3. Brother;

4. Sister;

5. Uncle;

6. Aunt;

7. Nephew;

8. Niece;

9. First cousin;

10. First cousin once removed;

11. A relative of the half-blood;

12. A preceding generation denoted by a prefix of:

a. Grand;

b. Great;

c. Great-great; or

d. Great-great-great; or

13. A stepfather, stepmother, stepbrother, stepsister; stepgrandmother, or stepgrandfather;

(9) ~~[(10)] An applicant who is deceased shall have eligibility determined in the same manner as if he were alive, in order to pay medical bills during the terminal illness;~~

(10) ~~[(11)] Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member. If a family member is pregnant, the unborn child shall be considered as a family member for budgeting purposes;~~

(11) ~~[(12)] The following citizenship and residency requirements shall be applicable:~~

(a) To be eligible for Medicaid, an applicant or recipient shall be:

1.a. A citizen of the United States; or

b. Except as provided in paragraph (b) of this subsection, a qualified alien admitted for permanent residence; and

2. A resident of Kentucky meeting the conditions for determining state residency under 42 CFR 435.403.

(b) A nonqualified alien shall be eligible for medical assistance under the following circumstances and conditions:

1. Except as provided in subparagraph 2 of this paragraph, an alien shall meet all requirements for receipt of Medicaid.

2. An alien who does not receive a K-TAP or federal supplemental security income (SSI) cash payment shall:

a. Be qualified as a categorically needy recipient; and

b. Meet the income, resource and categorical requirements of the applicable cash assistance program.

3. The alien shall have (or have had within at least one (1) of the three (3) months prior to the month of application) an emergency medical condition not related to an organ transplant procedure, defined as a medical condition (including severe pain) in which the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part;

4. Approval of eligibility shall be for a time limited period, with that period to include the month in which the medical emergency began and the next following month, with the added provision that the eligibility period shall be extended for an appropriate period of time upon presentation to the department written documentation from the medical provider that the medical emergency will exist for a more extended period of time than is allowed for in the time limited eligibility period; and

5. The Medicaid benefits to which the alien shall be entitled is limited to the medical care and services (including limited follow-up) necessary for the treatment of the emergency medical condition of the alien;

(12) ~~[(13)]~~ An individual shall be determined eligible for Medicaid for up to three (3) months prior to the month of application if all conditions of eligibility are met and the applicant is not participating in a managed care partnership.

(a) Except as provided in paragraphs (b) and ~~[(c)]~~ ~~and~~ ~~[(d)]~~ of this subsection, the effective date of Medicaid shall be the first day of the month of eligibility.

(b) ~~For an individual eligible on the basis of unemployment, eligibility shall:~~

1. ~~Not exist for the thirty (30) day period following the starting date of the unemployment; and~~

2. ~~Be the first day following the end of the thirty (30) day period if all other conditions of eligibility are met.~~

(c) ~~[(d)]~~ For an individual eligible on the basis of desertion, a period of desertion shall have existed for thirty (30) days, and the effective date of eligibility shall not precede the first day of the month in which the thirty (30) day period ends.

(c) ~~[(d)]~~ For an individual eligible on the basis of utilizing his excess income for incurred medical expenses, the effective date of eligibility shall be the day the spend-down liability is met;

(13) ~~[(14)]~~ Benefits shall be denied to a family for a month in which a parent with whom the child is living is, on the last day of the month, participating in a strike, and the individual's needs shall not be considered in determining eligibility for Medicaid for the family if, on the last day of the month, the individual is participating in a strike. A strike shall include a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees;

(14) ~~[(15)]~~ A caretaker relative (but not a child) removed from a family related Medicaid only case due to failure to meet a technical eligibility requirement shall not be eligible for Medicaid as a medically needy individual unless the individual is separately eligible for medical assistance without regard to eligibility as a member of the group from which the individual has been removed.

Section 6. Institutional Status. An individual shall not be eligible for Medicaid if the individual is a:

(1) Resident or inmate of a nonmedical public institution;

(2) Patient in a state tuberculosis hospital unless he has reached age sixty-five (65);

(3) Patient in a mental hospital or psychiatric facility unless the individual is:

(a) Under age twenty-one (21);

(b) Under age twenty-two (22) if he was receiving inpatient services on his 21st birthday;

(c) Sixty-five (65) years of age or over; or

(d) Participating in Kentucky Medicaid's managed behavioral health care organization; or

(4) Patient in a nursing facility classified by the Medicaid program as an institution for mental diseases unless the individual:

(a) Has reached age sixty-five (65); or

(b) Is participating in Kentucky Medicaid's managed behavioral healthcare organization.

Section 7. Emergency Shelters. An individual ~~[(for family group)]~~ who is in an emergency shelter for a temporary period of time shall be eligible for medical assistance even though the shelter is considered a public institution under certain conditions. These conditions shall be as follows:

(1) The individual or family group shall:

(a) Be a resident of an emergency shelter no more than six (6) months in any nine (9) month period; and

(b) Not be in the facility serving a sentence imposed by the court, or awaiting trial; and

(2) Eligibility for Medicaid shall have existed immediately prior to admittance to the shelter, or it shall exist immediately after leaving the shelter.

Section 8. Application for Other Benefits. (1) As a condition of eligibility for Medicaid, an applicant or recipient shall apply for each annuity, pension, retirement and disability benefit to which he is entitled, unless he can show good cause for not doing so.

(a) Good cause shall be considered to exist if the benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions.

(b) Annuities, pensions, retirement and disability benefits shall include:

1. Veterans' compensations and pensions;

2. Retirement and survivors disability insurance benefits;

3. Railroad retirement benefits; and

4. Unemployment compensation.

(2) An applicant or recipient shall not be required to apply for federal benefits if:

(a) The federal law governing that benefit specifies that the benefit is optional; and

(b) ~~[A potential applicant or recipient is not required to apply for the benefit if]~~ The applicant or recipient believes that applying for the benefit would be to his disadvantage.

Section 9. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient shall be deemed to have made an assignment to the Cabinet for Health Services of any medical support owed for the child not to exceed the amount of Medicaid payments made on behalf of the recipient.

Section 10. Third Party Liability as a Condition of Eligibility. (1) Except as provided in subsection (3) of this section, an individual applying for or receiving Medicaid shall be required as a condition of eligibility to cooperate with the Cabinet for Health Services in identifying, and providing information to assist the cabinet in pursuing, any third party who may be liable to pay for care or services available under the Medicaid Program unless the individual has good cause for refusing to cooperate as determined by the cabinet taking into consideration the best interests of the individuals involved.

(2) A failure of the individual to cooperate without good cause shall result in ineligibility of the individual.

(3) A pregnant woman eligible under poverty level standards shall not be required to cooperate in establishing paternity or securing support for her unborn child.

Section 11. Provision of Social Security Numbers. (1) Except as

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provided in subsections (2) and (3) of this section, an [each] applicant [for] or recipient of Medicaid shall provide a Social Security number as a condition of eligibility.

(2) An individual shall not be denied eligibility or discontinued from eligibility due to a delay in receipt of a Social Security number from the Social Security Administration if appropriate application for the number has been made.

(3) If the parent or caretaker relative refuses to cooperate with obtaining a Social Security number for the newborn child or other dependent child, the parent or caretaker relative shall be ineligible due to failure to meet technical requirements. The newborn child or other dependent child shall be eligible for Medicaid if financial eligibility requirements are met.

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 2, 1999

FILED WITH LRC: July 2, 1999 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: Potentially 35,000 children may be affected by this expansion.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: Minimal costs

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Increased reporting as identified in companion administrative regulation, 907 KAR 4:020E.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: Promulgation of this administrative regulation may result in as many as 20,000 additional low income children receiving needed medical 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 low income children whose income is at or below 150% of the federal poverty level.

(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 fiscal impact is deemed minimal regarding the revision to the definition of an unemployed parent because the income limits for Medicaid are currently at 33% of the federal poverty level, and the increase in the number of eligibles would only include the parents since the children would already be eligible due to the low income limits.

(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.

STATEMENT OF EMERGENCY 907 KAR 1:155E

This emergency administrative regulation is being promulgated to: (a) implement a revised reimbursement payment methodology for the Supports for Community Living (SCL) Waiver Program; (b) incorporate the definition of "department"; (c) incorporate the revised reimbursement methodology into the material incorporated by reference; and (d) incorporate minor changes to comply with KRS Chapter 13A. This action must be taken on an emergency basis to ensure that those individuals with mental retardation or developmental disabilities receive a high quality of care. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because inadequate reimbursement rates may cause providers to terminate SCL services or provide low quality of care. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JOHN H. MORSE, Secretary

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division Member and Provider Services

907 KAR 1:155E. Payments for supports for community living services for individuals with mental retardation or developmental disabilities.

RELATES TO: KRS 205.520, 42 CFR 441, Subpart G, 42 USC 1396a, b, d, n[EO-96-862]

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520 [194.050; EO-96-862]

EFFECTIVE: July 2, 1999

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 Service.] KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any [a] 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 establishes the coverage provisions relating to home and community based waiver services provided to an individual with mental retardation or developmental disabilities as an alternative to intermediate care facility services for an

individual with mental retardation [the mentally-retarded].

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services.

(2) [Definition:] "Supports for community living (SCL)" means community-based waiver services for an individual with mental retardation or developmental disabilities.

Section 2. Coverage. (1) The cabinet shall reimburse a participating provider of SCL for a service to a Medicaid recipient who:

(a) Meets patient status criteria for intermediate care for the mentally retarded; and

(b) Is authorized for the SCL service by the department.

(2) In order to be covered, a service shall be described, defined, and provided in accordance with the terms and conditions specified in 907 KAR 1:145.

Section 3. Payment Amounts. (1) A participating in-state SCL provider certified in accordance with 907 KAR 1:145 shall be reimbursed at a prospective rate per unit of service during the first year of participation based on a budgeted cost report in accordance with the Department for Medicaid Services Supports for Community Living Payment Rate Determination Manual, which is incorporated by reference.

(2) Payment rate setting shall be as follows:

(a) Reimbursement shall be made using a projected rate per unit of service based on the most recent available annual cost report as of June 1 preceding the July 1 rate setting with cost trended and indexed through June 30 of the rate year; and

(b) Reimbursement shall be retroactively adjusted to incorporate adjustments to the annual cost report as a result of an audit or desk review.

(3) Reimbursement for medical services, dentures, eyeglasses, or hearing aids shall be paid at a reasonable cost, determined by the department, if prescribed for a recipient by a physician as necessary for an individual's habilitation and not otherwise covered by the Medicaid Program. These services shall be paid apart from the services paid through the cost report, but limited to reasonable cost.

(4) A payment and rate shall be subject to a test of reasonableness through an audit.

(5) Utilizing the formula established in 42 CFR 441.303(f)(1) as a guideline and applying accumulated statistical data, the department shall set, effective July 1 each year, an annualized upper limit, which is the aggregate amount reimbursed to the SCL providers not to be exceeded in a twelve (12) month calendar period, to be applied to the total payments for SCL services.

(6) The department may reduce established rates or limit new rates by a percentage amount which assures that the total payments to a provider are not in excess of the annualized upper limit. A reduction factor shall be applied in a manner as to ensure an even flow of reimbursement to an SCL provider through the year.

(7) For state fiscal year 1999-2000, the payment amount for SCL services shall be established pursuant to Section 8 of this administrative regulation.

Section 4. Units of Service. The units of service shall be as follows:

(1) An SCL coordination services unit of service shall be one (1) month;

(2) A residential care services unit of service shall be twenty-four (24) hours;

(3) A community living SCL services unit of service shall be one (1) hour;

(4) A respite care services unit of service shall be one (1) hour; institutional respite unit of service shall be twenty-four (24) hours;

(5) A community habilitation services unit of service shall be one (1) hour;

(6) A physical therapy, occupational therapy, speech therapy, behavioral support, or psychological services unit of service shall be one-fourth (1/4) hour;

(7) A wellness monitoring unit of service shall be one (1) visit;

(8) A supported employment unit of service shall be one (1) hour;

(9) A Personal Emergency Response System (PERS) unit of

service shall be one (1) month of initial installation and one (1) month of usage; and

(10) Specialized medical equipment and supplies unit of service shall be one (1) item.

Section 5. Payment Exclusions and Limitations. (1) Payment shall not include:

(a) The cost of room and board; or

(b) The cost of maintenance, upkeep and improvements to the residence if it is a group home or other licensed facility.

(2) A payment shall not be made to:

(a) A community living SCL provider who provides community living services for routine care and supervision and which duplicates homemaker and personal care services being provided by a family member; or

(b) A community habilitation provider for supported employment services for individuals not receiving payment according to 29 USC 794, et seq.

Section 6. Auditing and Reporting. (1) A participating provider shall:

(a) Maintain fiscal and service records for a period of not less than five (5) years; and

(b) Provide, as requested, reports determined necessary by the department for the effective functioning and administration of the program.

(2) A provider shall make available upon request service and financial records to a representative or designee of:

(a) The Commonwealth of Kentucky, Cabinet for Health Services;

(b) The United States Department of Health and Human Services, Comptroller General;

(c) The Department of Health and Human Services, Health Care Financing Administration;

(d) The General Accounting Office; or

(e) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts.

Section 7. Appeals Rights. (1) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

(2) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

Section 8. Payment Amounts for State Fiscal Year 1999-2000.

(1) For state fiscal year 1999 - 2000, the rate setting methodology for a participating in-state SCL provider that is certified pursuant to 907 KAR 1:145 shall be as follows:

(a) The payment rate for a unit of service that was in effect for an individual provider of SCL services for the period ending June 30, 1999 shall be indexed for inflation by three and one-half (3.5) percent.

(b) Except for a service meeting the criterion of paragraph (c) of this subsection, the payment rate established in paragraph (a) of this subsection shall be increased by an additional three and one-half (3.5) percent.

(c) If the payment rate that was in effect for the period ending June 30, 1999 for an SCL service pursuant to subparagraphs 1 or 2 of this paragraph was less than the provider's average unit cost that was utilized by the department to establish the payment rate for state fiscal year 1998 - 1999, the payment rate established pursuant to paragraph (a) of this subsection shall be increased by an additional four (4) percent for:

1. Community habilitation; or

2. Staffed residence.

(2) The rate setting methodology for:

(a) A new provider who did not offer SCL services prior to July 1, 1999; and

(b) A current provider who offers an SCL service that was not offered prior to July 1, 1999 shall be as follows:

1. The payment rates that are established pursuant to subsection (1) of this section shall be arrayed to determine the median rate for each service; and

2. Multiplied by 115 percent.

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(3) A provider shall be reimbursed for services specified in and pursuant to the methodology of Section 3(3) of this administrative regulation:

(4) The reimbursement payment of a SCL service for state fiscal year 1999-2000 shall not be retroactively adjusted to incorporate an adjustment to the annual cost report resulting from an audit or desk review, except for errors identified by the department when computing the rate.

Section 9. Incorporation by Reference. (1) [The] "Supports for Community Living Payment Rate Determination Manual", Department for Medicaid Services, July 1999 [March 1998] Edition, is incorporated by reference.

(2) This material [H] may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 2, 1999

FILED WITH LRC: July 2, 1999 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: 1102 potential recipients are served at any given time.

(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: To be determined after the Notice of Intent public hearing which will be held pursuant to KRS Chapter 13A.

(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: To be determined after the Notice of Intent public hearing which will be held pursuant to KRS Chapter 13A.

(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: \$2,800,000 (cost)

2. Continuing costs or savings: \$2,925,000 (cost)

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. This administrative regulation is consistent with the budgetary appropriations of HB 321 as enacted by the 1998 General Assembly.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds.

State Fiscal Year	Federal Matching Funds of 70.49%	State Matching Funds of 29.51%	Total
2000	\$1,763,750	\$736,250	\$2,800,000
2001	\$1,832,740	\$767,260	\$2,925,000

(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: The

effects of this emergency administrative regulation will prevent an imminent threat to public health by ensuring that program participants receive a high quality of care.

(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: Failure to implement this emergency administrative regulation would pose an imminent threat to the public health, safety, or welfare of Medicaid recipients because inadequate provider payments may result in the termination of services or a lowering of the quality of care to the mentally retarded or developmentally disabled.

(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 emergency administrative regulation because the emergency administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this emergency 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.

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 emergency 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.

STATEMENT OF EMERGENCY 907 KAR 1:640E

This emergency administrative regulation is being promulgated to add eligible children whose income is at or below 150 percent of the federal poverty level through the Kentucky Children's Health Insurance Program (KCHIP) Medicaid expansion. This action must be taken on an emergency basis to allow children living in poverty to access needed medical services, which they currently cannot receive due to the inability to pay either for private insurance or for the services. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of low-income children due to their inability to access needed medical services. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor

JOHN H. MORSE, Secretary

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CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Member and Provider Services

907 KAR 1:640E. Income standards for Medicaid.

RELATES TO: KRS 205.520, 42 USC 1396j(b), 1397aa et seq.
STATUTORY AUTHORITY: KRS 194A.030, 194A.050 [194.050],
42 CFR 435, 42 USC 1396a, b, d, 1397aa et seq. [1998 Ky. Acts ch.
426, sec. 4(9)]

EFFECTIVE: July 2, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program in accordance with 42 USC 1396 through 1396v. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the income standards by which eligibility is determined.

Section 1. Definitions. (1) "ABD" means an individual who is aged, blind, or disabled.

(2) "AFDC" means the Aid to Families with Dependent Children Program as it existed on July 16, 1996.

(3) "Dependent child" means a child who is:

(a) Deprived of parental support due to death, incapacity, or absence of a parent; and

(b) Under the age of:

1. Eighteen (18); or

2. Nineteen (19) if the child is:

a. In high school or the same level of vocational or training school; and

b. Expected to graduate before or during the month of his 19th birthday.

(4) "Incapacity" means a [any] condition of mind or body making a parent physically or mentally unable to provide the necessities of life for a child.

(5) "Income" means money received from statutory benefits (including Social Security, Veteran's Administration pension, black lung benefits, or railroad retirement benefits), pension plans, rental property, investments, or wages for labor or services.

(6) "Lump sum income" means money received at one (1) time which is normally considered as income, including accumulated back payments from Social Security, unemployment insurance or workman's compensation, back pay from employment, money received from an insurance settlement, gift, inheritance, lottery winning, non-continuing proceeds from a bankruptcy proceeding, money withdrawn from an IRA, KEOGH plan, deferred compensation, tax deferred retirement plan, or other tax deferred asset.

(7) "Minor parent" means a parent under the age of twenty-one (21).

(8) "Official poverty income guidelines" means the poverty income guidelines which are:

(a) Updated annually in the Federal Register by the United States Department of Health and Human Services, under authority of 42 USC 9902(2); and

(b) The latest poverty guidelines available as of March 1 of the particular state fiscal year.

(9) "SSI" means supplemental security income program.

Section 2. Income Limitations. (1) For the medically needy as described in 907 KAR 1:011, income shall be determined by comparing adjusted income as required by Section 3 of this administrative regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income projected for basic maintenance:

Size of Family	Annual	Monthly
1	\$ 2,600	\$ 217
2	3,200	267
3	3,700	308
4	4,600	383
5	5,400	450

6	6,100	508
7	6,800	567

For each additional member, \$720 annually or sixty (60) dollars monthly shall be added to the scale.

(2) The following special factors shall be applicable for a pregnant woman or child eligible pursuant to 42 USC 1396a(e):

(a) A pregnant woman or a child under age one (1) shall have family income not exceeding 185 percent of the official poverty income guidelines;

(b) A child age one (1) or over but under age six (6) shall have family income not exceeding 133 percent of the official poverty income guidelines;

(c) A child born after September 30, 1983, who has attained six (6) years of age but has not attained nineteen (19) years of age shall have family income not exceeding 100 percent of the official poverty income guidelines;

(d) A pregnant woman or child who would be eligible under provisions of 42 USC 1396a(l) or 1397j(b) [of the Social Security Act] except for income in excess of the allowable standard shall not become eligible by spending down [(pursuant to Section 9 of this administrative regulation)] to the official poverty income guidelines as described in Section 9 of this administrative regulation;

(e) A change of income that occurs after the determination of eligibility of a pregnant woman shall not affect the pregnant woman's eligibility through the remainder of the pregnancy including the post-partum period which ends at the end of the month containing the 60th day of a period beginning on the last day of her pregnancy;

(f) A child as specified in 907 KAR 1:011E, Section 2(17), shall have family income not exceeding 100 percent of the official poverty income guidelines;

(g) A targeted low-income child as specified in 907 KAR 1:011E, Section 2(18), shall have family income not exceeding 150 percent of the official poverty income guideline.

(3) The following special income limits and provisions shall be applicable for a determination of eligibility of a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified disabled working individual, or Medicare qualified individual.

(a) A qualified Medicare beneficiary shall have income not exceeding 100 percent of the official poverty income guidelines.

(b) A specified low-income Medicare beneficiary shall have income greater than 100 percent of the official poverty income guidelines but not to exceed 120 percent of the official poverty income guidelines.

(c) Medicare qualified individuals shall be divided into two (2) groups:

1. Group one (1) shall have income greater than 120 percent of the official poverty income guidelines but less than or equal to 135 percent of the official poverty income guidelines.

2. Group two (2) shall have income greater than 135 percent of the official poverty income guidelines but less than or equal to 175 percent of the official poverty income guidelines.

(d) A qualified disabled working individual shall have income not exceeding 200 percent of the official poverty income guidelines.

(4) Income shall be limited to the allowable amounts for the SSI Program for:

(a) A child who lost eligibility for supplemental security income benefits due to the change in the definition of childhood disability as established in 42 USC 1396a(a)(10); or

(b) A person with hemophilia who received a class action settlement as established in 42 CFR 435.122;

(5) Income shall be limited to the allowable amounts for the State Supplementation Program for a pass through recipient as established in 42 CFR 435.135.

Section 3. Income Disregards. In comparing income with the scale established in Section 2 of this administrative regulation, gross income shall be adjusted as follows:

(1) In an AFDC or family related Medicaid case, the standard work related expenses of an adult member or out-of-school child shall be deducted from gross earnings. For a person with either full-time or part-time employment the standard work expense deduction shall be ninety (90) dollars per month. [All] Earnings of an in-school child or a child under age eighteen (18) who is a high school graduate shall be

disregarded.

(2) In an AFDC or family related Medicaid case, child care as a work expense shall be allowed for a child who is living in the home of the caretaker and is related to the caretaker in accordance with 907 KAR 1:011, Section 5(8) [(9)](b) for full-time and part-time employment.

(a) The dependent child care work expense shall be deducted after all other disregards have been applied.

(b) The child care work expense allowed shall not exceed, per month:

1. \$200 for full-time or part-time employment per child under age two (2); and

2. \$175 for full-time employment or \$150 for part-time employment per:

- a. Child age two (2) or above; or
- b. Incapacitated adult.

(3) In an ABD Medicaid case, income disregards shall be those applicable in the federal SSI program established in 42 USC 1382a(b).

Section 4. Income of the Stepparent or Parent of a Minor Parent referred to as a "Grandparent". An incapacitated stepparent's income, or a grandparent's income, shall be considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. If the stepparent or grandparent living in the home is not being included in the family case, the stepparent's gross income shall be considered available to the spouse or the grandparent's gross income shall be considered available to the minor parent in accordance with the policies set forth in this section. The following disregards and exclusions from income shall be applied:

(1) The first ninety (90) dollars of the gross earned income of the stepparent or grandparent who is employed full time or part time.

(2) An amount equal to the appropriate income limitations scale established in Section 2 of this administrative regulation for the appropriate family size, for the support of the stepparent or grandparent and any other individuals (not including the spouse or minor parent) living in the home but whose needs are not taken into consideration in the Medicaid eligibility determination and are claimed by the stepparent or grandparent as dependents for purposes of determining federal personal income tax liability.

(3) Any amount actually paid by the stepparent or grandparent to an individual not living in the home who is claimed by him as a dependent for purposes of determining his personal income tax liability.

(4) A payment by the stepparent or grandparent for alimony or child support with respect to an individual not living in the household.

(5) Income of a stepparent or grandparent receiving SSI.

(6) Verified medical expenses for the stepparent or grandparent and his dependents in the home.

Section 5. Lump Sum Income. (1) For an AFDC related Medicaid case, lump sum income shall be divided by the medically needy income level and prorated over the resultant number of months. A deduction from the lump sum may be allowed for related or extraordinary expenses.

(2) For an individual eligible under the federal poverty level standards specified in Section 2(2)(a), (b), (c), (f), and (g) [and (e)] of this administrative regulation, lump sum income shall be divided by the appropriate standard for the eligible group and prorated over the resultant number of months. A deduction from the lump sum may be allowed for related or extraordinary expenses.

(3) For an ABD Medicaid case, lump sum income shall be considered as income in the month received.

Section 6. Income Exclusions. (1) Income of a person who is blind or disabled necessary to fulfill an approved plan for achieving self-support (PASS), impairment related work expense (IRWE) deduction, or the blind work expense (BWE) deduction shall be excluded from consideration.

(2) A payment or benefit from a federal statute, other than SSI benefits, shall be excluded from consideration (as income) if precluded from consideration in SSI determinations of eligibility by the specific terms of the statute.

(3) A cash payment intended specifically to enable an applicant or recipient to pay for medical or social services shall not be considered

as available income in the month of receipt.

(4) A Federal Republic of Germany reparation payment shall not be considered available in the eligibility or posteligibility treatment of income of an individual in a nursing facility or hospital or who is receiving home and community based services under a waiver.

(5) A Social Security cost of living adjustment on January 1 of each year shall not be considered as available income for a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified disabled working individual or Medicare qualified individual until after the month following the month in which the official poverty guideline promulgated by the Department of Health and Human Services U.S. Government, is published.

(6) Any amount received from a victims compensation fund established by a state to aid victims of crime shall be excluded as income.

(7) A veteran in a nursing facility who is receiving the reduced ninety (90) dollars Veterans Administration (VA) benefit shall have the ninety (90) dollars:

(a) Excluded as income in the Medicaid eligibility determination; and

(b) Considered as income in the posteligibility determination process.

(8) An Austrian Social Insurance payment based, in whole or in part, on a wage credit granted under Sections 500-506 of the Austrian General Social Insurance Act shall be excluded from income consideration.

(9) An individual retirement account, KEOGH plan or other tax deferred asset shall be excluded as income until withdrawn.

(10) Disaster relief assistance shall be excluded as income.

(11) Income which is exempted from consideration for purposes of computing eligibility for the comparable money payment program (AFDC and SSI) shall be exempted from consideration by the cabinet.

(12) In accordance with 42 CFR 435.122 and Section 4735 of PL 105-33 any payment made from a fund established by a settlement in the case of Susan Walker v. Bayer Corporation or payment made for release of claims in this action shall be excluded as income.

(13) In accordance with 42 CFR 435.122 any payment received by a person with hemophilia from a class action law suit entitled "Factor VIII or IX Concentrate Blood Products Litigation" shall be excluded as income.

(14) Family Alternatives Diversion payments shall be excluded as income.

(15) For an AFDC or family related Medicaid case new earned income shall be excluded for the first two (2) months of receipt.

Section 7. Consideration of State Supplementary Payments. For an individual receiving a state supplementary payment, that portion of the individual's income which is in excess of the basic maintenance standard (established in Section 2(1) of this administrative regulation) shall be applied to the special need which results in the supplementary payment.

Section 8. Pass-through Cases. (1)(a) An increase in a Social Security payment shall be disregarded in determining eligibility for Medicaid benefits if:

- 1. The increase is a cost of living increase; and
- 2. The individual would otherwise be eligible for an SSI benefit or state supplementary payment.

(b) An individual who would otherwise be eligible for an SSI benefit or state supplementary payment shall remain eligible for the full scope of program benefits with no spend-down requirements, as established in Section 9 of this administrative regulation.

(2) For an individual who applied by July 1, 1988, the additional amount specified in 42 USC 1383c(b) shall be disregarded, meaning that amount of Social Security benefits to which a specified widow or widower was entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) an individual would be eligible for federal SSI benefits.

Section 9. Spend-down Provisions. (1) A technically eligible individual or family shall not be required to utilize protected income for medical expenses before qualifying for Medicaid.

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(2) An individual with income in excess of the basic maintenance scale established in Section 2(1) of this administrative regulation may qualify for Medicaid in any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

(3) Medical expenses incurred in a period prior to the quarter for which spend-down eligibility is being determined may be used to offset excess income if the medical expenses remain unpaid at the beginning of the quarter and have not previously been used as spend-down expenses.

(4) The incurred costs may be reimbursed under another public program of the state or political subdivision of the state and still be considered incurred costs of the applicant or recipient.

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 2, 1999

FILED WITH LRC: July 2, 1999 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: Potentially 35,000 children may be affected by this expansion.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: Minimal costs.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Increased reporting as identified in companion administrative regulation, 907 KAR 4:020E.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: Promulgation of this administrative regulation may result in as many as 35,000 additional low income children receiving needed medical 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 low income children whose income is at or below 150% of the federal poverty level.

(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.

STATEMENT OF EMERGENCY 907 KAR 4:020E

This emergency administrative regulation is being promulgated to establish KCHIP in accordance with SB 128 of the 1998 regular session of the General Assembly and the Balanced Budget Act of 1997. This action must be taken on an emergency basis to ensure access to comprehensive health benefits to children who are currently uninsured and not receiving adequate coverage. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of uninsured children. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on January 15, 1999, as follows: Since the promulgation of the previous emergency administrative regulation, the department has determined that further implementation of KCHIP cannot proceed by July 1, 1999 without expanding the Medicaid Program. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JOHN H. MORSE, Secretary

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Member and Provider Services

907 KAR 4:020E. Kentucky Children's Health Insurance Program Title XXI of the Social Security Act.

RELATES TO: KRS Chapter 45A, 205.510-205.645, 42 USC 1397aa et seq.

STATUTORY AUTHORITY: KRS 194A.030, 205.6481-205.6497, 42 USC 1397aa et seq.

EFFECTIVE: June 23, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Kentucky Children's Health Insurance Program. KRS 205.6481-205.6497 authorizes the cabinet, by administrative regulations, to establish the Kentucky Children's Health Insurance Program (KCHIP) to provide health care coverage and other coordinated health care services to children of the Commonwealth who are uninsured and otherwise not eligible for health insurance coverage. This administrative regulation establishes the eligibility criteria, covered services, the application requisites, grievance and appeal rights, and the criteria for health services providers wishing to participate with the Commonwealth to provide KCHIP coverage through an expansion of the Title XIX Medicaid Program.

Section 1. Definitions. (1) "Cabinet" means the Kentucky Cabinet for Health Services or its agent.

(2) "Child" means an individual under age nineteen (19).

(3) "Creditable coverage" means, in accordance with 42 USC

1397jj(c), a public or private health insurance benefit plan whether insured or self-insured including:

- (a) Employee retirement income security act plans (ERISA);
- (b) COBRA;
- (c) Group health plans which also include church or governmental plans;
- (d) HMO's;
- (e) An individual health insurance policy;
- (f) Medicaid;
- (g) Part A or B Medicare;
- (h) Health plans for active military personnel, including Cham-pus; or
- (i) Another plan which provides comprehensive hospital, medi-cal, and surgical services.

(4) "Department" means the Department for Medicaid Services or its agent.

(5) "Health insurance" means, in accordance with 42 USC 1397jj(c), insurance of human beings:

(a) Against bodily injury, disablement, or death by accident or accidental means;

(b) Against the resulting expenses of the injury, disablement, or death;

(c) Against disablement or expense resulting from sickness or childbirth;

(d) Against expense incurred in prevention of sickness;

(e) For dental care and including an insurance that applies to injury, disablement or death.

(6) "KCHIP" means the Kentucky Children's Health Insurance Program in accordance with 42 USC 1397aa et seq.

(7) "Presumptive eligibility" means eligibility which is predeter-mined by a qualified entity based on the family's declaration that its income is equal to or less than the KCHIP income eligibility guide-lines.

(8) "Presumptive eligibility period" means the period of time, not to exceed sixty (60) days, that begins on the date that a qualified entity makes a determination that a child is eligible for KCHIP and ends on the date that the department determines that the child is eligible or ineligible.

(9) "Qualified entity" means an entity that is eligible for a pay-ment pursuant to 907 KAR Chapters 1 and 3, and 42 USC 1397aa et seq. and is determined by the department to be capable of mak-ing KCHIP eligibility determinations.

Section 2. Eligibility Criteria. (1) A child shall be eligible for KCHIP if the child:

(a) Meets the technical and income requirements of 907 KAR 1:011, Section 2(17); and

1. Is not eligible for Medicaid;

2. Meets the eligibility requirements of 907 KAR 1:605; and

3. Meets the relative responsibility requirements of 907 KAR 1:660; or

(b) Is an optional targeted low-income child as defined in 42 USC 1397jj(b); and

1. Has family income which does not exceed 150 percent of the federal poverty guidelines, updated annually in the Federal Register by the United States Department of Health and Human Services under authority of 42 USC 9902(2); and

2.a. Is not covered by creditable health insurance. Creditable coverage shall not include the following:

(i) Accident only coverage;

(ii) Disability income insurance;

(iii) Liability insurance or supplemental insurance to liability in-surance;

(iv) Worker's compensation;

(v) Limited scope dental and vision coverage;

(vi) Long-term care or nursing home care coverage;

(vii) Home health care or community-based coverage;

(viii) Specified disease or illness coverage;

(ix) Hospital or other fixed indemnity coverage; or

b. Was not covered by creditable health insurance within six (6) months prior to the application for KCHIP, unless the coverage was terminated for other than voluntary reasons.

(2) A child may be determined to be presumptively eligible by

the department for a period not to exceed sixty (60) days by a quali-fied entity.

(3) Eligibility for KCHIP shall be determined by the department. Upon receipt of the eligibility information defined in subsection (1) of this section, the department shall determine if the child is eligible pursuant to 42 USC 1396 or 1397aa et seq.

Section 3. Covered Services. (1) The department shall consider health services as medically necessary if the services are reason-able and necessary to diagnose and provide preventive, palliative, curative, or restorative treatment for physical or mental conditions in accordance with professionally recognized standards of health care generally accepted at the time services are provided, in accordance with 42 CFR 440.230.

(2) The amount and duration of benefits covered under the KCHIP Program shall be as established in 907 KAR Chapters 1 and 3.

(3) A medical service shall be covered through KCHIP if the individual is determined eligible for KCHIP benefits in accordance with Section 2 of this administrative regulation.

(4) KCHIP shall be the payor of last resort.

Section 4. KCHIP Application Requisites. (1) The department shall provide instructions to the qualified entity on how to assist par-ents, guardians, and other persons in completing and filling out the application necessary to apply for KCHIP.

(2) The qualified entity shall notify the department of the deter-mination that a child is presumptively eligible within five (5) working days after the date on which the determination is made.

(3) The qualified entity shall inform the parent or custodian of the child that:

(a) The family's income meets KCHIP criteria established in Section 2 of this administrative regulation; and

(b) An application for KCHIP as described in subsection (6) of this section is required.

(4) During the period of presumptive eligibility, an item or service furnished to a child eligible for KCHIP and provided by an entity eligible for payments pursuant to 907 KAR Chapters 1 and 3 shall be considered covered by KCHIP.

(5) The following applicable information shall be required from the child or responsible party for enrollment into KCHIP:

(a) The child's demographics, to include at a minimum, name, address, sex, date of birth, race, and Social Security number;

(b) The monthly gross (before taxes) earned income of a parent and the child for whom the application is being made, if any; the employer name and frequency of income;

(c) Health insurance information of a health insurance provider who currently provides coverage or who provided coverage in the six (6) months prior to the date of application, policy number, policy holder's name, Social Security number and who is covered by the plan;

(d) Other income received weekly, biweekly, bimonthly, quarterly or annually;

(e) The name and age of a child or disabled adult for whom care must be purchased in order for the parent or responsible person to work; and

(f) The signature, date, and telephone number of the person submitting the application data for the child.

Section 5. Provider Participation Requirements. A provider's enrollment, disclosure, and documentation for participation in KCHIP shall meet the requirements of 907 KAR 1:671, 907 KAR 1:672, 907 KAR 1:320, 907 KAR 1:705, and 907 KAR 1:710.

Section 6. Complaint, Grievance and Appeal Rights. (1) If dis-satisfied with an action taken by the cabinet, the child, his parent or guardian shall be entitled to a complaint, grievance or appeal with the cabinet, to be conducted in accordance with 907 KAR 1:560, 907 KAR 1:563, 907 KAR 1:705, or 907 KAR 1:710.

(2) If a service is provided by a managed-care organization, a dispute resolution between a provider and a child, his parent or guardian shall be in accordance with KRS 211.461 through 211.466 and 906 KAR 1:563.

(3) A KCHIP-eligible child, or a parent or guardian of a KCHIP-eligible child shall be informed, in writing, of his rights to, and procedures for due process by the cabinet, at the time of his KCHIP application or, at a time there is a change in eligibility status, and as required by federal and state laws.

Section 7. Quality Assurance and Utilization Review. The department shall evaluate on a continuing basis, access, continuity of care, health outcomes, and services arranged or provided as established in 907 KAR 1:705 and 907 KAR 1:710.

DENNIS BOYD, Commissioner
JOHN H. MORSE, Secretary
JOHN H. WALKER, Attorney

APPROVED BY AGENCY: June 10, 1999

FILED WITH LRC: June 23, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: Potentially 35,000 uninsured children through age 18 between 100 to 150% of the federal poverty level; health insurers; and health care providers.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

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

1. First year following implementation: encounter data will be submitted to the department to support monitoring and accountability processes by the contracting entities. These requirements are similar to requirements currently being submitted by these entities and are no more onerous than current Medicaid reporting requirements, nor filing necessary paperwork for commercial plans. Every state agency will be required to do outcome reporting to support the department's goals, develop baseline health status data for the department and develop strategies for improving the health status of the uninsured population.

2. Second and subsequent years: Same impact for second and subsequent years as additional geographic regions are affected in the second and third years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$63,000,000 (cost)

2. Continuing costs or savings: \$63,000,000 (cost)

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Federal financial and service reporting as required by the Health Care Financing Administration (HCFA).

(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. *Federal matching funds of 79% equaling \$50,000,000 and state matching funds of 21% equaling \$13,000,000. State revenues will come from funds appropriated in the 1998-2000 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) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: provides health insurance benefits to uninsured children through age 18 between 100 - 150% of the Federal Poverty Level.

(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 uninsured children by preventing access to affordable and comprehensive health care coverage.

(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? 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.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to the Balanced Budget Act of 1997 the Commonwealth of Kentucky has exercised the option to establish the Kentucky Children's Health Insurance Program for children who are currently uninsured and have family incomes between 100 - 150% of the Federal Poverty Level. Having elected to offer KCHIP coverage, the state must comply with federal requirements contained in the Balanced Budget Act of 1997.

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 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 (+/-): None

Expenditures (+/-): None

Other Explanation: None

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARRS, July 13, 1999)

11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5.

RELATES TO: KRS 164.740 to 164.785

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 264.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. [The Kentucky Higher Education Assistance Authority administers grant programs to provide student financial assistance to students for attendance at Kentucky postsecondary educational institutions.] This administrative regulation establishes the definitions for 11 KAR Chapter 5. [sets forth definitions of terms common to multiple administrative regulations in this chapter.]

Section 1. Definitions. (1) "Academic term" means the fall or spring semester or their equivalence under a trimester or quarter system at a postsecondary education institution and shall not include summer sessions.

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

(3) "Authority" is defined by KRS 164.740(1).

(4) "Business school" is defined by KRS 164.740(3).

(5) "College access program" or "CAP" means the program of student financial assistance grants authorized under KRS 164.7535 to assist financially needy part-time and full-time undergraduate students attending an educational institution.

(6) "College" is defined by KRS 164.740(4).

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

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

(a) Offers an eligible program of study;

(b) As a condition of enrollment as a regular student, requires that the person:

1. Have a certificate of graduation from a school providing secondary education, or the equivalent of a certificate; or

2.a. Be beyond the age of compulsory attendance in Kentucky; and

b. Have the ability to benefit from the training offered by the institution; and

(c) 1. For purposes of the college access program is [;], a business school, college, school of nursing or vocational school, and meets the requirements of 20 USC 1070 to 1070c-4 and 1088 to 1099; or

2. For purposes of the Kentucky tuition grant program, is a private college whose institutional programs are not comprised solely of sectarian instruction.

(9) "Eligible noncitizen" means an individual who is:

(a) Either:

1. A U.S. national;

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

3. A person with a Departure Record (I-94) from the U.S. Immigration and Naturalization Service showing any one (1) of the following designations:

a. "Refugee";

b. "Asylum granted";

c. "Indefinite parole" or "humanitarian parole"; or

d. "Cuban-Haitian entrant"; and

(b) Not in the United States on a:

1. F1 or F2 student visa;

2. J1 or J2 exchange visa; or

3. G series visa.

(10) "Eligible program of study" means an undergraduate program offered by an educational institution which:

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

(b) For purposes of the Kentucky Tuition Grant Program, leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled; and

(c) For purposes of the CAP Grant Program, leads to a certificate, diploma, or degree in a field other than theology, divinity or religious education.

(11) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying the federal methodology established in 20 USC 1087kk through 1087vv to the information that the student and his family provided on the application.

(12) "Federal act" is defined by KRS 164.740(9) and means 20 USC 1001 through 1146a.

(13) "Full-time student" means an enrolled [a] student who is carrying a full-time academic workload, other than by correspondence;

(a) That may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student; and

(b) As determined by the institution under a standard applicable to all students enrolled in a particular educational program, except that for an undergraduate student, an institution's minimum standard shall [; determined by the institution under a standard applicable to all students enrolled in a particular educational program. The student's workload may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student. However, for an undergraduate student, an institution's minimum standard must] equal or exceed one (1) of the following minimum requirements:

1. [(a)] Twelve (12) semester hours or twelve (12) quarter hours in each of two (2) quarters per academic term in an educational program using a semester, trimester, or quarter system;

2. [(b)] Twenty-four (24) semester hours or thirty-six (36) quarter hours per academic year for an educational program using credit hours but not using a semester, trimester, or quarter system, or the prorated equivalent for a program of less than one (1) academic year;

3. [(c)] Twenty-four (24) clock hours per week for an educational program using clock hours;

4. [(d)] In an educational program using both credit and clock hours, any combination of credit and clock hours if [where] the sum of the following fractions is equal to or greater than one (1):

a. [1.] For a program using a semester, trimester, or quarter system, the number of credit hours per term divided by twelve (12) and the number of clock hours per week divided by twenty-four (24); or

b. [2.] For a program not using a semester, trimester, or quarter system, the number of semester or trimester hours per academic year divided by twenty-four (24) and the number of quarter hours per academic year divided by thirty-six (36) and the number of clock hours per week divided by twenty-four (24);

5. [(e)] A series of courses or seminars that equals twelve (12) semester hours or twenty-four (24) quarter hours in a maximum of eighteen (18) weeks; or

6. [(f)] The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic

workload of a full-time student, [measured in terms of:

(a) Course work or other required activities as determined by the institution in which the student is enrolled, including a combination of courses, work experience, research or special studies which:

1. The institution requires of the student to consider him as being engaged in full-time study; and

2.a. Amounts to the equivalent of a minimum of twelve (12) semester hours or twelve (12) quarter hours per academic term for an institution utilizing a trimester, semester, or quarter hour system; or

b. Consists of a program requiring the minimum of twenty-five (25) clock hours per week for an institution that does not utilize a trimester, semester, or quarter hour system; and

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

(14) "Grant" is defined by KRS 164.740(10).

(15) "Kentucky tuition grant" or "KTG" means the program of student financial assistance grants authorized by KRS 164.780 and 164.785 for residents of Kentucky who bear the major costs of attending an educational institution and who demonstrate financial need.

(16) "KHEAA grant" means an award of a student financial assistance grant under the college access program or the Kentucky tuition grant program or a combination of the two (2).

(17) "KHEAA grant limit" means an aggregate limitation on KHEAA grant awards to an individual which is:

(a) Measured in terms of the number of semesters during which a KHEAA grant is disbursed to a full-time student and not fully refunded; and

(b) Depleted by one (1) semester:

1. For a KHEAA grant disbursed to a full-time student in a semester; or

2. By a CAP grant recipient enrolled less than full time, who receives the cumulative equivalent amount of CAP grant that would have been received by a full-time CAP grant recipient using the then current maximum CAP grant.

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

(19) "Overaward" means receipt of financial assistance from all sources in excess of a student's need determined in accordance with 11 KAR 5:120 through 5:145.

(20) "Resident of Kentucky" or "resident" means a person who is classified as an in-state student in accordance with the criteria established in 13 KAR 2:045.

(21) "Total cost of education" means an amount determined for an academic year for each applicant by the following formula: normal tuition and fees charged by the institution chosen by the applicant, plus maximum board contract amount, plus minimum room contract amount.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: April 26, 1999

FILED WITH LRC: May 12, 1999 at 9 a.m.

**DEPARTMENT FOR LOCAL GOVERNMENT
(As Amended at ARRS, July 13, 1999)**

109 KAR 9:010. Area Development Fund.

RELATES TO: KRS 42.345 to 42.370 [Chapter 42]

STATUTORY AUTHORITY: KRS 42.360

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 42.360 requires the Department for Local Government to promulgate administrative regulations necessary to implement KRS 32.350 and 42.355, regarding capital projects in area development districts.** [Pursuant to the authority vested in the Commissioner of the Department of Local Government by KRS 42.360.] This administrative regulation establishes procedures relating to implementation of KRS 42.345 to 42.370 [42.350 to 42.360], including submission and approval of proposed capital projects, expenditure of moneys from the

Area Development Fund and completion of capital projects.

Section 1. (1) In determining the eligibility of a capital project [projects] pursuant to KRS 42.350(2) and (3), [The board of directors of each area development district shall select from among capital projects proposed by eligible beneficiary agencies; projects consistent with goals, objectives and priorities of adopted state, local or regional development plans and shall submit recommended projects to the Department of Local Government for approval.

(2) the board of directors of each area development district shall give priority consideration to a proposed project which has [projects which have] funds allocated in addition to area development funds and shall consider need and long-term benefits in selection of a project [projects].

(2) The [(3)] boards of directors of two (2) or more area development districts may propose joint capital projects to be financed by funds allocated to each participating area development district.

Section 2. (1) A project proposal shall be submitted to the Department for Local Government on a completed Project Profile (Area Development Fund) form.

(2) Except for a project conditionally approved pursuant to Section 4 of this administrative regulation, a proposal shall not be considered officially submitted until complete information and documentation required has been received by the Department for Local Government. [All project proposals shall be submitted on forms prescribed by the Department for [of] Local Government; and no proposal shall be considered officially submitted until complete information and documentation required has been received by the Department for [of] Local Government.]

Section 3. (1) In addition to the requirements established in subsections (2), (3), and (4) of this section, each proposal submitted by an area development district shall be accompanied by:

(a) The minutes of the area development district board meeting specifying project approval and the amount of area development funds allocated to the project;

(b) Except as provided by paragraph (c) of this subsection:

1. Itemized cost estimates prepared within thirty (30) days prior to the date of submission by a licensed architect or engineer; or

2. A price quote on each item from one (1) or more vendors or contractors obtained within thirty (30) days prior to submission;

(c) If a bid has already been acquired, all bid documentation including a copy of the advertisement, bid tabulation, a certification that the opening time and place was accurate, the contract, change order, purchase order, letter of award, minutes or state price contract;

(d) A statement of assurances by the chief executive officer of the beneficiary agency that all applicable laws and administrative regulations have been or will be met with attestation of the county clerk that the written assurances required by KRS 42.355 are recorded in the office of the county clerk in the county in which the project is located; and

(e) Other information required pursuant to KRS 42.350(3).

(2) Each proposal submitted by an entity other than a city or county shall be accompanied by:

(a) A court order containing a reference to the authorizing statute by which the special district was established;

(b) An executive agreement approved by the Attorney General as an agency created under the Interlocal Cooperation Act, KRS 65.210 to 65.300; or

(c) Articles of incorporation of a nonprofit corporation organized for a public purpose and performing governmental functions and services.

(3) If funds from a source other than area development funds are to be used, the availability of those funds shall be verified by:

(a) A resolution, minutes of the legislative body, or adopted budget of a local government;

(b) A copy of the grant or loan award notice which states

the amount of funds and date the grant or loan funds will be available from the federal or state agency disbursing the funds;

(c) An affidavit by the authorized agent of a private funding source; or

(d) Other documentation the commissioner shall require in order to verify the availability of funds pursuant to this subsection.

(4) The following conditions shall require the inclusion of the specified documentation in addition to other required documentation:

(a) A proposal to acquire real property or acquire interest in real property shall be accompanied by a licensed attorney's statement which sets forth the present holder of title, book and page number of the deed by which the holder received the title and sets forth each lien, mortgage, and claim against the property;

(b) If the beneficiary agency owns property rights by lease, the proposal shall be accompanied by a copy of the executed lease which shall be for a term longer than the life expectancy of the project, generally not less than a twenty-five (25) year period;

(c) A proposal to extend new water, sewer or other utilities shall be accompanied by easements, rights-of-way, or attorney determination and certification of existence of those easements or rights-of-way; and

(d) A proposal for purchase of real property shall be accompanied by an appraisal, and a survey by a licensed surveyor.

Section 4. (1) If requested by an area development district, the commissioner shall conditionally approve a project that he determines complies with the provisions of KRS 42.350 and 42.355 pending submission of the information required in Sections 2 and 3 of this administrative regulation.

(2) Payment for a project conditionally approved pursuant to this section shall not be made until all the information required by Sections 2 and 3 of this administrative regulation have been received and approved by the department. [Each proposal submitted by an area development district shall be accompanied by the following documentation:

(1) Minutes of area development district board meeting specifying project approval and amount of area development funds allocated to the project;

(2) Except cities and counties:

(a) A court order containing [contained] a reference to the authorizing statute by which the special district was established; [or]

(b) An executive agreement approved by the Attorney General as an agency created under the Interlocal Cooperation Act; or

(c) Articles of incorporation of a nonprofit corporation organized for a public purpose and performing governmental functions and services;

(3) If funds from other sources are to be used for the project, the availability of such funds shall be verified by:

(a) A resolution, minutes of legislative body or adopted budget of a local government; [and/or]

(b) A copy of grant or loan award notice from a federal or state agency which states the amount of funds and date such grant or loan funds will be available; [and/or]

(c) An affidavit by the authorized agent of a private funding source; or

(d) Any other documentation the commissioner shall require in order to verify the availability of funds pursuant to this subsection.

(4) Itemized cost estimates prepared within thirty (30) days prior to the date of submission by a licensed architect or engineer; or a price quote on each item from one (1) or more vendors or contractors obtained within thirty (30) days prior to submission.

(5) Statement of assurances by the chief executive officer of the beneficiary agency that all applicable laws and administrative regulations have been or will be met with attestation of the county clerk that such written assurances required by KRS 42.355 are recorded in the office of the clerk of the county in which the project is located.

(6) Any proposal to acquire real property or acquire interest in real property shall be accompanied by a licensed attorney's statement which sets forth the present holder of title, book and page number of

the deed by which the holder received title and sets forth any liens, mortgages and claims against the property.

(7) When the beneficiary agency owns property rights by lease, the proposal shall be accompanied by a copy of the executed lease which must be for a term longer than the life expectancy of the project, generally not less than a twenty-five (25) year period.

(8) Proposals to extend new water, sewer or other utilities shall be accompanied by easements, right-of-ways or attorney determination and certification of existence of those easements or right-of-ways [same].

(9) Proposals for purchase of real property shall be accompanied by an appraisal.

(10) A digitized map of proposed lines for all water and sewer line projects consistent with the Water Resources Development Commission Digital Submission Standards.

(11) Other information required pursuant to KRS 42.350(3).

Section 4. A project may be given conditional approval pending submission of any documentation or other information required by these administrative regulations, but final payment shall not be made on any project until all documentation has been submitted and approved.]

Section 5. A beneficiary agency shall maintain and furnish the following records to the Department for Local Government upon request [as appropriate the following documentation]:

(1) A Project Completion Report **(Area Development Fund)**, [on a form prescribed by the Department of Local Government.];

(2) A copy of advertisement for bids, indicating **each date** [the date(s)] and source of publication.

(3) A tabulation of all bids received with certification by the chief executive officer that all bids were opened at the time and place stated in the advertisement, the tabulation is true and accurate and all laws applicable to advertisement and award have been met.

(4) A copy of official records documenting award of the bid.

(5) A copy of each executed contract (or purchase order) and **change order** [any change order(s)] to the contract.

(6) Specifications upon which the bid and award were based.

(7) A copy of the fully executed deed.

(8) A copy of **each statement or invoice** [all statements/invoices].

(9) A copy of note or other document marked paid.

(10) **Another record** [Any other records] the Department for Local Government deems [Other such documents or information which may be] necessary to verify appropriate use of grant funds.

Section 6. (1) Upon the area development district receiving either conditional or final approval of a project proposal by the commissioner of the Department for Local Government, the area development district shall have two (2) years to implement and complete the project from the date at which the earliest approval was granted.

(2)(a) Funds remaining in a Department for Local Government, Area Development District's Fund Account, and not granted and disbursed to a beneficiary agency for a capital project, as of close of business, June 30 of the last year of a biennium, shall be forfeited and returned to the Department for Local Government to be reallocated among the area development districts.

(b) Excess grant money disbursed to a beneficiary agency for a capital project but not expended, as of close of business, June 30 of the last year of a biennium, shall be returned in accordance with KRS 42.355(2). [Any area development funds allocated to a particular area development district that remain in the Department for Local Government Area Development Fund Account as of close of business June 30 of the last year of a biennium shall be forfeited and returned to the Department for Local Government area development fund account to be reallocated among all the area development districts.]

Section 7. (1) A local government unit [units] that has [have] received Department for Local Government project approval shall complete that [a] project prior to being eligible to engage in a [any] future area development fund project [projects].

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(2) A project shall not be deemed completed until all work has been completed and approved, and the project completion report submitted to the Department for Local Government.

Section 8. A beneficiary agency that received a grant [Beneficiary agencies receiving grants] in aid as authorized by KRS 42.345 through 42.370 [42.350 through 42.355] shall expend the granted funds [only] for the payment of the costs of the capital project for which the [such] grant was made. A grantee beneficiary agency [agencies] shall be liable to repay to the area development fund [any] granted funds expended by the agency in violation of this section or the provisions of KRS 42.345 through 42.370 [42.350 through 42.355].

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Project Profile (Area Development Fund)", July 1999; and

(b) "Project Completion Report (Area Development Fund)", July 1999.

(2) This material may be inspected, copied, or obtained at the Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [(1) The following forms are incorporated by reference:

(a) The Area Development Fund Project Profile, filed and dated February 15, 1999; and

(b) The Area Development Fund Project Completion Report, filed and dated February 15, 1999.

(2) Copies of the forms may be inspected, copied, or obtained at the office of the Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.]

BOB ARNOLD, Commissioner
THOMAS M. TROTH, Legal Counsel

APPROVED BY AGENCY: February 15, 1999

FILED WITH LRC: February 15, 1999 at 8 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, July 13, 1999)

201 KAR 9:041. Fee schedule.

RELATES TO: KRS 311.565(1)(a), (t) [(20)]

STATUTORY AUTHORITY: KRS 311.565(1)(a), (t) [(20)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(t) authorizes the board to prescribe and collect reasonable fees and charges for an examination, directory, or the issuance or renewal of a license or permit. KRS 311.565(1)(a) authorizes the board to promulgate administrative regulations necessary to regulate the conduct of a licensee. This administrative regulation establishes a schedule of fees for services rendered by the board. [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 a schedule of fees for services rendered by the board.]

Section 1. Fee Schedule. (1) Fee for sitting for the state medical examination administered by the board:

(a) Examination fee - \$365.

(b) Examination application fee - fifty (50) dollars.

(2) Fee for initial issuance of regular license - \$250 [225].

(3) Fee for initial issuance of limited license - seventy-five (75) dollars.

(4) Fee for annual registration or renewal of regular license - \$125 [100].

(5) Fee for annual registration or renewal of limited license - sixty-five (65) dollars.

(6) Penalty for late annual registration or renewal:

(a) March 1 - April 1 - fifty (50) dollars.

(b) After April 1 - \$100.

(7) Fee for reregistration of inactive license - \$225 [150].

(8) Endorsement of licensee to licensing agency of another jurisdiction - fifty (50) dollars.

(9) Certification of licensee's examination grades to licensing agency of another jurisdiction - ten (10) dollars.

(10) Fee for temporary permit (credited to fee for regular license if subsequently issued) - fifty (50) dollars.

(11) Fee for emergency permit - twenty-five (25) dollars.

(12) Fee for duplicate license certificate - ten (10) dollars.

(13) Fee for copy of "Kentucky Medical Directory" - fifteen (15) dollars.

(14) Fee for one (1) year subscription to Newsletter (fee waived for licensees) - ten (10) dollars.

(15) [Fee for license application - twenty-five (25) dollars.

(16)] Fee for sitting for competency examination administered by board - \$275.

(16) [(17)] Fee for initial issuance of regular license for a graduate of a [graduates of] Kentucky medical school who remains [schools who remain] in this state for postgraduate training - \$150.

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

APPROVED BY AGENCY: April 15, 1999

FILED WITH LRC: April 16, 1999 at 11 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, July 13, 1999)

201 KAR 9:084. Fee schedule regarding physician assistants.

RELATES TO: KRS 311.550(17), (18), 311.560(3), 311.565(1)(a), (t) [311.530 to 311.620, 311.990]

STATUTORY AUTHORITY: KRS 311.565(1)(a), (t), (9), (20), (22)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(t) authorizes the board to prescribe and collect reasonable fees and charges for an examination, directory, or the issuance or renewal of a license or permit. KRS 311.567(1) authorizes the board to promulgate administrative regulations necessary to regulate the conduct of physician assistants. This administrative regulation establishes a schedule of fees for relating to physician assistants. [KRS 311.565(22) authorizes the State Board of Medical Licensure to exercise all the administrative functions of the state in regard to the administrative regulation of physician assistants. The purpose of this administrative regulation is to establish a schedule of fees for services rendered by the board in performing its administrative functions.]

Section 1. Fee Schedule. The board shall charge the following fees:

(1) Application for a certificate, \$100.

(2) Application for a temporary certificate, fifty (50) dollars.

(3) Conversion from a temporary certificate to a certificate, fifty (50) dollars.

(4) Fee for biennial renewal of certificate, \$100 [fifty (50) dollars].

(5) Penalty fee for late renewal of certificate, fifty (50) [twenty-five (25)] dollars.

(6) Issuance of a duplicate certificate, ten (10) dollars.

(7) Application by a physician for approval to employ a physician assistant, \$100.

(8) Application to transfer the responsibility of the supervising physician to an approved supervising physician agent, fifty (50) dollars.

(9) Fee for emergency permit, fifteen (15) dollars.

(10) Fee for supervising physician of physician assistant holding an emergency permit, fifteen (15) dollars.

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

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APPROVED BY AGENCY: March 15, 1999
FILED WITH LRC: March 15, 1999 at 11 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, July 13, 1999)

201 KAR 9:330. Determination of death by a paramedic.

RELATES TO: KRS 72.020, 216B.410, 311.623, [~~311.621 to 311.643;~~] 311.660, 446.400

STATUTORY AUTHORITY: KRS 311.654(1), 311.660(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.660(1) requires [directs] the Kentucky Board of Medical Licensure to promulgate [adopt] administrative regulations to establish a protocol for use by a paramedic in making a determination of death. This administrative regulation establishes [relating to determination of death by paramedics. The function of this administrative regulation is to provide] a protocol for determination of death by paramedics.

Section 1. If [When] it appears that a person whom a paramedic has been called to attend is dead, the protocol established [~~procedures set out~~] in Sections 2 through 7 of this administrative regulation shall be followed prior to determining that the person is dead.

Section 2. The paramedic shall determine and document that the following signs of death are present:

- (1) Unresponsiveness; [and]
- (2) Apnea; [and]
- (3) The absence of a palpable pulse at the carotid site; [and]
- (4) Bilaterally fixed and dilated pupils; and
- (5) Except in a case [~~cases~~] of trauma, asystole determined in two (2) leads on an electrocardiograph in accordance with the American Heart Association guidelines.

Section 3. The paramedic shall determine, in addition, that one

- (1) of the following factors or conditions exist:
 - (1) Lividity of any degree;
 - (2) Rigor mortis of any degree;
 - (3) The presence of venous pooling in the body;
 - (4) Damage or destruction of the body which is incompatible with life; or
 - (5) A standard form or identification evidencing a patient's desire not to be resuscitated in accordance with KRS 311.623.

Section 4. If the paramedic has determined and documented that the conditions of Sections 2 and 3 of this administrative regulation exist, the paramedic may, subject to the provisions of Section 5 of this administrative regulation, declare the patient dead.

Section 5. (1) Except if [Except where] 201 KAR 9:335 or sub-section (2) of this section requires that medical control contact be made, the paramedic may contact medical control or a licensed physician, authorized in writing by the medical director, for advice and assistance in making a [~~any~~] determination required by this administrative regulation.

(2) Pursuant to KRS 311.660(6) [~~except that~~] the medical director of the service may direct, in the service's protocol, that prior to making a determination that a patient is dead that the medical director, or a physician authorized in writing by the medical director, be contacted and that the determination be concurred in by the physician.

Section 6. The paramedic shall document all items required by this administrative regulation on the ambulance run report form required by KRS 216B.410.

Section 7. If [When] a paramedic determines a patient to be dead, the paramedic shall remain on the scene until the arrival of a law enforcement officer or until the paramedic is released from the scene by the coroner.

DANNY M. CLARK, President
C. LLOYD VEST, II, General Counsel
APPROVED BY AGENCY: February 15, 1999
FILED WITH LRC: February 15, 1999 at 11 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, July 13, 1999)

201 KAR 9:335. Discontinuance of resuscitation by a paramedic.

RELATES TO: KRS 72.020, 216B.410, 311.623, [~~311.621 to 311.643;~~] 311.660, 446.400

STATUTORY AUTHORITY: KRS 311.654(1), 311.660(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.660(1) requires [directs] the Kentucky Board of Medical Licensure to promulgate [adopt] administrative regulations to establish a protocol governing the discontinuance of a resuscitation efforts by a paramedic. This administrative regulation establishes a [relating to discontinuance of resuscitation by a paramedic. The function of this administrative regulation is to provide] protocol for discontinuance of resuscitation by a paramedic.

Section 1. A paramedic may discontinue resuscitation if:

- (1) The patient has suffered cardiac arrest prior to arrival at the hospital;
- (2) The paramedic has attempted and documented the resuscitative efforts specified in the applicable resuscitation protocol of the ambulance service medical director;
- (3) The resuscitative efforts were unsuccessful; and
- (4) The patient meets the criteria established in 201 KAR 9:335, Section 2. [A paramedic may discontinue resuscitation when the patient has suffered a cardiac arrest prior to arrival at the hospital and does not meet the criteria specified in 201 KAR 9:330. The paramedic may discontinue resuscitation when the criteria specified in Section 1 of 201 KAR 9:330 are met and the resuscitative efforts specified in the applicable resuscitation protocol of the ambulance service medical director have been performed and documented.]

Section 2. A paramedic may discontinue resuscitation initiated by someone other than a paramedic if:

- (1) The patient has suffered cardiac arrest;
- (2) The resuscitative efforts specified in the applicable resuscitation protocol of the ambulance service medical director have been performed and documented;
- (3) The resuscitative efforts were unsuccessful; and
- (4) The patient meets the criteria established in 201 KAR 9:335, Section 2. [A paramedic may discontinue resuscitation initiated by someone other than a paramedic when the patient suffers cardiac arrest and when the treatment and resuscitation protocols applicable to the patient's medical condition have been performed and documented and patient meets the criteria specified in Section 1 of 201 KAR 9:330.]

Section 3. The paramedic shall contact medical control or a licensed physician, authorized in writing by the medical director, for advice and assistance prior to making a [~~any~~] determination required by this administrative regulation. The discontinuation of resuscitation shall be approved by the physician prior to the discontinuance.

Section 4. The paramedic may discontinue resuscitation on a [~~any~~] patient meeting the requirements specified in KRS 311.621 to 311.643 if [when] presented with a copy of a standard form of identification authorized in KRS 311.623.

Section 5. The paramedic shall document all items required by this administrative regulation on the ambulance form required by KRS 216B.410.

Section 6. If a paramedic discontinues resuscitation on a patient

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prior to transport of the patient to a medical facility, the paramedic shall make the notifications required by KRS 72.020 and remain on the scene until the arrival of a law enforcement officer or until the paramedic is released from the scene by the coroner.

Section 7. If a paramedic discontinues resuscitation on a patient during transport to a medical facility, the paramedic shall make the notifications required by KRS 72.020 to the officials of the county in which the paramedic discontinued resuscitation. Upon making ~~the~~ [such] notification, the paramedic shall determine from the appropriate ~~official~~ [official(s)] whether to remain at that location, to return the deceased to a facility within the primary service area of the ambulance provider, or to continue on to the medical facility with the deceased.

Section 8. **A paramedic shall not discontinue resuscitation or declare a person dead if the paramedic is:**

(1) Off duty; or

(2) In a part of the state outside the service area of the paramedic's ambulance service or EMS provider. [A paramedic who is off duty or, in a part of the state outside the service area of the paramedic's ambulance service or EMS provider, shall not discontinue resuscitation or declare a person dead. A paramedic who is on duty and in a different part of the state shall not discontinue resuscitation on a patient who the paramedic is not transporting.]

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

APPROVED BY AGENCY: February 15, 1999

FILED WITH LRC: February 15, 1999 at 11 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, July 13, 1999)

201 KAR 9:340. Training of paramedics in determination of death and discontinuance of resuscitation.

RELATES TO: KRS 72.020, 216B.410, 311.621 to 311.643, 311.660, 446.400

STATUTORY AUTHORITY: KRS 311.654(1), 311.660(3), (4)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 311.660(4) requires the Board of Medical Licensure to promulgate an administrative regulation establishing the in-service training requirements for a paramedic relating to determination of death and preservation of evidence. This administrative regulation establishes the training program requirements for a paramedic.** [KRS 311.660 directs the Kentucky Board of Medical Licensure to specify how paramedics are to be trained in determination of death and in the discontinuance of resuscitation. The function of this administrative regulation is to implement the training program.]

Section 1. The training program shall not be less than three (3) hours in length and shall include at least the following:

- (1) Information on and a copy of KRS 311.660; [and]
- (2) Information on and a copy of 201 KAR 9:330; [and]
- (3) Information on and a copy of 201 KAR 9:335; [and]
- (4) Information on and a copy of KRS 72.020; [and]
- (5) Information on and a copy of KRS 311.621 to 311.643; [and]
- (6) Information on the duties of and role of the coroner and state medical examiner; and
- (7) Information on preservation of evidence; and at the scene of a death.

Section 2. **(1) Except as provided in Section 4 of this administrative regulation, the training shall be:**

(a) [The training may be] Provided as part of an approved paramedic training course; or

(b) [shall be] Conducted under the supervision of the medical director or supervising physician of an EMS provider or ambulance service for whom the paramedic works.

(2) The paramedic training course instructor or the medical director providing the training shall certify that the training has been conducted in accordance with the requirements of this administrative regulation.

Section 3. The medical director of the ambulance service or EMS provider providing the training shall invite the coroner of the county in which the training is conducted to attend the training and assist in the instruction.

Section 4. A paramedic may, with the written approval of the medical director of the ambulance ~~or~~ EMS service for which the paramedic works, attend the training specified in this administrative regulation at any location in this Commonwealth where the training is being conducted.

Section 5. **An instructor or [The]** medical director conducting training under this administrative regulation shall make a written report to the Board of Medical Licensure containing the names of all paramedics who successfully complete the training. The report shall be sent to the Board of Medical Licensure within twenty (20) working days after the conclusion of the training.

Section 6. **Pursuant to KRS 311.660(3), a paramedic course taught in Kentucky shall include a course of instruction that complies with the requirements established in this administrative regulation.**

Section 7. **Pursuant to KRS 311.660(4), a paramedic seeking recertification shall successfully complete the training required by this administrative regulation within ninety (90) days of his certification by the board.** [This administrative regulation shall apply to each paramedic course taught in Kentucky after its effective date.]

~~Section 7. A paramedic desiring to be certified as a paramedic in Kentucky shall complete the training required herein within ninety (90) days of his certification by the board. Until a paramedic has completed this training he shall not declare a person dead or discontinue resuscitation.]~~

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

APPROVED BY AGENCY: February 15, 1999

FILED WITH LRC: February 15, 1999 at 11 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(As Amended at ARRS, July 13, 1999)

201 KAR 20:420. Determination of death by a registered nurse employed by an ambulance service.

RELATES TO: KRS 72.020, 216B.410, **311.623**, 314.181, 446.400

STATUTORY AUTHORITY: KRS 314.131(1), 314.181(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.181(1) **requires [directs]** the Kentucky Board of Nursing to **promulgate [adopt]** administrative regulations **to establish a protocol for use by a registered nurse in making a determination of death.** This administrative regulation establishes [relating to determination of death by registered nurses. The function of this administrative regulation is to provide] a protocol for determination of death by a registered nurse employed by an ambulance service.

Section 1. **If [When]** it appears that a person whom a registered nurse in the employ of an ambulance service has been called to attend is dead the **protocol established in Sections 2 through 7 of this administrative regulation** [following procedure] shall be followed prior to determining that the person is dead.

Section 2. The registered nurse shall determine and document

that the following signs of death are present:

- (1) Unresponsiveness; [and]
- (2) Apnea; [and]
- (3) The absence of a palpable pulse at the carotid site; [and]
- (4) Bilaterally fixed and dilated pupils; and
- (5) Except in **a case** [cases] of trauma, asystole determined in two (2) leads on an electrocardiograph in accordance with American Heart Association standards.

Section 3. The registered nurse shall determine, in addition, that one (1) of the following factors or conditions exist:

- (1) Lividity of any degree;
- (2) Rigor mortis of any degree;
- (3) The presence of venous pooling in the body;
- (4) Damage or destruction of the body which is incompatible with life; or
- (5) A standard form or identification evidencing a patient's desire not to be resuscitated in accordance with KRS 311.623.

Section 4. If the registered nurse has determined and documented that the conditions of Sections 2 and 3 of this administrative regulation exist, the registered nurse may, subject to the provisions of Section 5 of this administrative regulation, declare the patient dead.

Section 5. **(1) Except if 201 KAR 20:430 or subsection (2) of this section requires that medical control contact be made,** the registered nurse may contact medical control or a licensed physician, authorized in writing by the medical director, for advice and assistance in making a [any] determination required by this administrative regulation.

(2) Pursuant to KRS 314.181(6), the medical director of the service may direct, in the service's protocol, that prior to making a determination that the patient is dead that the medical director, or a physician authorized by him, be contacted and that the physician agrees with the determination.

Section 6. The registered nurse shall document all items required by this administrative regulation on the ambulance run report form required by KRS 216B.410.

Section 7. **If [When]** a registered nurse determines a patient to be dead, the registered nurse shall remain on the scene until the arrival of the coroner or a law enforcement officer.

SUE DAVIS, President

NATHAN GOLDMAN, General Counsel

APPROVED BY AGENCY: February 8, 1999

FILED WITH LRC: February 9, 1999 at 9 a.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(As Amended at ARRS, July 13, 1999)**

201 KAR 20:430. Discontinuance of resuscitation by a registered nurse employed by an ambulance service.

RELATES TO: KRS 72.020, 216B.410, **311.623**, [311.621 to 311.643;] 314.181, 446.400

STATUTORY AUTHORITY: KRS 314.131(1), 314.181(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.181(1) **requires** [directs] the Kentucky Board of Nursing to **promulgate** [adopt] administrative regulations **to establish a protocol governing the discontinuance of resuscitation efforts by a registered nurse. This administrative regulation establishes a** [relating to discontinuance of resuscitation by a registered nurse. The function of this administrative regulation is to provide] protocol for discontinuance of resuscitation by a registered nurse employed by an ambulance service.

Section 1. **A registered nurse may discontinue resuscitation if:**

(1) The patient has suffered cardiac arrest prior to arrival at the hospital;

(2) The registered nurse has attempted and documented the resuscitative efforts specified in the applicable resuscitation protocol of the ambulance service medical director;

(3) The resuscitative efforts were unsuccessful; and

(4) The patient meets the criteria established in 201 KAR 20:420, Section 2. [A registered nurse may discontinue resuscitation when the patient has suffered a cardiac arrest prior to arrival at the hospital and does not meet the criteria specified in 201 KAR 20:420. The registered nurse may discontinue resuscitation when the criteria specified in Section 1 of 201 KAR 20:420 are met and the resuscitation efforts specified in the applicable resuscitation protocol have been performed and documented.]

Section 2. **A registered nurse may discontinue resuscitation initiated by someone other than a registered nurse if:**

(1) The patient has suffered cardiac arrest;

(2) The resuscitative efforts specified in the applicable resuscitation protocol of the ambulance service medical director have been performed and documented;

(3) The resuscitative efforts were unsuccessful; and

(4) The patient meets the criteria established in 201 KAR 20:420, Section 2. [A registered nurse may discontinue resuscitation initiated by someone other than a registered nurse when the patient suffers cardiac arrest and when the treatment and resuscitation protocols applicable to the patient's medical condition have been performed and documented and patient meets the criteria specified in Section 1 of 201 KAR 20:420.]

Section 3. The registered nurse shall contact medical control or a licensed physician, authorized in writing by the medical director, for advice and assistance prior to making a [any] determination required by this administrative regulation. The discontinuance of resuscitation shall be approved by the physician prior to the discontinuance.

Section 4. The registered nurse may discontinue resuscitation on a [any] patient meeting the requirements specified in KRS 311.621 to 311.643 **if [when]** presented with a copy of a standard form of [or] identification authorized in KRS 311.623.

Section 5. The registered nurse shall document all items required by this administrative regulation on the ambulance form required by KRS 216B.410.

Section 6. If a registered nurse discontinues resuscitation on a patient prior to transport of the patient to a medical facility, the registered nurse shall make the notifications required by KRS 72.020 and remain on the scene until the arrival of the coroner or law enforcement officer.

Section 7. **If a registered nurse discontinues resuscitation on a patient during transport to a medical facility, the registered nurse shall make the notifications required by KRS 72.020 to the officials of the county in which the registered nurse discontinued resuscitation. Upon making the notification, the registered nurse shall determine from the appropriate official whether to remain at that location, to return the deceased to a facility within the primary service area of the ambulance provider, or to continue on to the medical facility with the deceased. [If a registered nurse discontinues resuscitation on a patient during transport to a medical facility, the registered nurse shall make the notifications required by KRS 72.020 and shall continue to the medical facility unless advised to the contrary by the coroner or a law enforcement officer. If advised to the contrary by the coroner or law enforcement officer, the registered nurse shall take the deceased to a facility within the primary service area of the ambulance provider as directed by the coroner or the law enforcement officer.]**

SUE DAVIS, President

NATHAN GOLDMAN, General Counsel

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GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(As Amended at ARRS, July 13, 1999)

201 KAR 20:440. Training of registered nurses employed by an ambulance service in determination of death and discontinuance of resuscitation.

RELATES TO: KRS 72.020, 216B.410, 311.621 to 311.643, 314.181, 446.400

STATUTORY AUTHORITY: KRS 314.131(1), 314.181(3), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.181(4) requires the Board of Nursing to promulgate an administrative regulation establishing the in-service training requirements for a registered nurse relating to determination of death and preservation of evidence. This administrative regulation establishes the training program requirements for a registered nurse employed by an ambulance service. [KRS 314.181 directs the Kentucky Board of Nursing to specify how a registered nurse employed by an ambulance service to be trained in determination of death and in the discontinuance of resuscitation. The function of this administrative regulation is to implement the training program.]

Section 1. The training program shall not be less than three (3) hours in length and shall include at least the following:

- (1) Information on and a copy of KRS 314.181; [and]
- (2) Information on and a copy of 201 KAR 20:420; [and]
- (3) Information on and a copy of 201 KAR 20:430; [and]
- (4) Information on and a copy of KRS 72.020; [and]
- (5) Information on and a copy of KRS 311.621 to 311.643; [and]
- (6) Information on the duties of and role of the coroner and state medical examiner; and
- (7) Information on preservation of evidence; and at the scene of a death.

Section 2. Except as provided in Section 4 of this administrative regulation, the training shall be conducted under the supervision of [and physical presence of] the medical director or supervising physician of the ambulance service for whom the registered nurse works. The medical director shall certify that the training has been conducted in accordance with the requirements of this administrative regulation.

Section 3. The medical director of the ambulance service providing the training shall invite the coroner of the county in which the training is conducted to attend the training and assist in the instruction.

Section 4. A registered nurse may, with the written approval of the medical director of the ambulance service for which the registered nurse works, attend the training specified in this administrative regulation at any location in this Commonwealth where the training is being conducted.

Section 5. The medical director conducting training under this administrative regulation shall make a written report to the Board of Nursing containing the names of all registered nurses who successfully complete the training. The report shall be sent to the Board of Nursing within twenty (20) [ten (10)] working days after the conclusion of the training.

SUE DAVIS, President

NATHAN GOLDMAN, General Counsel

APPROVED BY AGENCY: February 8, 1999

FILED WITH LRC; February 9, 1999 at 9 a.m.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(As Amended at ARRS, July 13, 1999)

401 KAR 47:110. Registered permit-by-rule.

RELATES TO: KRS 224.01-010, 224.10-100, 224.10-105, 224.40-100, 224.40-110, 224.40-120, 224.40-305, 224.40-310, 224.40-315, 224.40-320, 224.40-325, 224.40-330, 224.40-340, 224.40-605, 224.40-650, 224.43-010, 224.43-020, 224.43-070, 224.43-310, 224.43-315, 224.43-330, 224.43-340, 224.43-345, 224.43-350, 224.70-100, 224.70-110, 224.99-010, 224.99-020 [224.01, 224.10, 224.40, 224.43, 224.70, 224.99]

STATUTORY AUTHORITY: KRS 224.10-100(19)(c), (24), 224.40-100, [224.40-120,] 224.40-305, [224.43-330]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(19)(c), (24) and 224.40-305 authorize the cabinet to promulgate [Chapter 224 requires the cabinet to adopt] rules and administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. [This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in [Section 1 of] 401 KAR 47:080.] This administrative regulation establishes requirements for registered permits-by-rule and the standards for the certification program.

Section 1. Issuance of Registered Permit-by-rule. (1) Before accepting waste [beginning operation], the [Any] owner or operator of a solid waste site or facility specified in 401 KAR 47:080, Section 2(6) [of 401 KAR 47:080 in existence as of the effective date of this administrative regulation] shall notify the cabinet by submitting a registration [before October 1, 1990 on a form prescribed by the cabinet]. The registration shall become effective five (5) business days after the cabinet receives it unless the cabinet denies the registration within that time. The owner or operator of [Then the facility shall be deemed to have] a registered permit-by-rule facility shall comply [if the owner or operator complies] with the environmental performance standards in 401 KAR 30:031 in order for the registered permit-by-rule to remain effective [47:030].

(2) The registration for a registered permit-by-rule facility shall be submitted to the cabinet on one (1) of the following registration forms [which are incorporated by reference in Section 5 of this administrative regulation]:

(a) DEP 7059: Solid Waste Transfer Station, Convenience Center, and Recycling Center;

(b) DEP 7059-A: Solid Waste Composting Facility;

(c) DEP 7059-E: Class I Solid Waste Landfarm;

(d) DEP 7059-H: Less-than-one-acre Construction/Demolition Debris (CDD) Landfill; or

(e) DEP 7059-J: Solid Waste Incinerator.

(3) If [When] the cabinet determines that a [upon examination or reexamination of the] registration [that it] fails to include all of the [required] information required [by Section 4 of this administrative regulation], the cabinet shall notify the operator that the registration is deficient, [and that] The owner or operator shall submit the requested information within thirty (30) calendar [ten (10) business] days of the date [receipt] of the notice of deficiency. The cabinet's review shall be conducted in accordance with the requirements of 401 KAR 47:025. [The owner or operator shall be subject to enforcement procedures for not submitting the requested information in a timely fashion. Failure to complete the form in a timely fashion is not grounds to revoke a registered permit-by-rule.]

[(3) A registered permit-by-rule is not available [Subsection (1) of this section shall not apply] to a [any] facility which has been previously denied a permit or to a [any] facility whose authority to operate under 401 KAR Chapters 47 through 48 and KRS Chapter 224 has been previously terminated.]

(4) Prior to submission of the registration, the owner or operator shall prepare a groundwater protection plan in accordance with 401

KAR 5:037.

(5) The owner or operator shall publish a notice two (2) weeks prior to submission of the registration in a daily or weekly newspaper of general circulation where the proposed facility is located. Public notices shall be of a size to include not less than two (2) column widths for advertising and shall be in a display format. The public notice shall contain the following:

- (a) Name and address of the owner or operator;
- (b) The type of facility;
- (c) A brief description of the business to be conducted; and
- (d) Name and address of the facility.

Section 2. Operating Requirements for [Operation Under [During]

a] Registered Permit-by-rule Facilities. (1) The owner or operator of a facility operating under a registered permit-by-rule, except as provided in Section 3 of this administrative regulation, shall not:

(a) Store, treat or dispose of solid waste not specified in the registration [form]; or

(b) Exceed the design capacities specified in the registration [form].

(2) The owner or operator of a facility operating under a registered permit-by-rule shall comply with the environmental performance standards in 401 KAR 30:031 [47:030].

(3) The owner or operator of a registered permit-by-rule facility shall keep records as provided in this section [of the amount, sources and types of [municipal] solid waste received and other information as required by the cabinet].

(a) The owner or operator of a less-than-one (1) acre construction/demolition debris landfill or solid waste incinerator [and] shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7046, Annual Waste Quantity Report, [a quarterly summary of this information] to the cabinet annually and upon closure of the facility. [DEP 7046, Annual Waste Quantity Report, is incorporated by reference in Section 5 of this administrative regulation.] [The summary must be submitted no later than January 31 for the preceding calendar year.] [The quarterly report shall be on a form approved by the cabinet.]

(b) The owner or operator of a composting facility shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7108, Annual Report for a Solid Waste Composting Facility, to the cabinet annually and upon closure of the facility. [DEP 7108, Annual Report for a Solid Waste Composting Facility, is incorporated by reference in Section 5 of this administrative regulation.]

(c) The owner or operator of a landfarming facility shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7064, Annual Report for a Class I Solid Waste Landfarm, to the cabinet annually and upon closure of the facility. [DEP 7064, Annual Report for a Class I Solid Waste Landfarm, is incorporated by reference in Section 5 of this administrative regulation.]

(d) The owner or operator of a registered permit-by-rule convenience center, transfer station or commercial recycling center shall document records on DEP 7046, Annual Waste Quantity Report, [incorporated by reference in Section 5 of this administrative regulation]. Records shall be kept on site and available for inspection for three (3) years.

(4) The owner or operator of a [Convenience centers, transfer stations, solid waste incinerators, and commercial recyclers shall additionally submit a report to the cabinet annually, no later than January 31st for the previous year. The report shall identify the sources and quantities of waste handled. Additionally,] solid waste incinerator [incinerators] shall conduct the Toxicity Characteristic Leaching Procedure test described in 401 KAR 31:030, Section 5, before the initial disposal of any ash and whenever the characteristics of the waste accepted by the incinerator significantly change. The owner or operator of a solid waste incinerator shall report the volume of ash generated to the cabinet annually and upon closure of the facility. The report shall be submitted no later than January 31 for the preceding calendar year. [report volume of ash and the results of weekly extraction procedure tests on the ash.]

Section 3. Changes to a Registered Permit-by-rule. (1) Solid

wastes not previously identified in the registration may be stored, treated, or disposed at a facility operating under a registered permit-by-rule if the owner or operator submits a revised registration to the cabinet prior to that [such-a] change.

(2) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet prior to increasing [increases in] the design capacity of processes used at a facility.

(3) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet [at least five (5) business days] prior to changing [changes in] the processes for the storage, treatment or disposal of solid waste, using [or use of] additional processes, or changing the owner or operator. The revised registration shall become effective five (5) business days after the cabinet receives it, unless the cabinet denies the registration within that time.

[The owner or operator shall submit a revised registration prior to changes in owners or operators.]

[Changes listed in subsections (1) through (4) of this section may be implemented prior to cabinet acknowledgment of receipt of the revised registration.]

Section 4. The cabinet may revoke a registered permit-by-rule for the following causes:

(1) Noncompliance by the owner or operator with a condition of the registration;

(2) The owners, operator's, or key personnel's failure during the registration process to disclose all information required by the cabinet;

(3) The owner's, operator's, or key personnel's misrepresentation of any information required by the cabinet at any time;

(4) The cabinet's determination that the operation endangers human health, safety, or the environment;

(5) The owner's, operator's or key personnel's [facility's] violation of any requirement of KRS Chapter 224 or the administrative regulations promulgated pursuant thereto; or

(6) A change to the registered permit-by-rule that was made without complying with Section 3 of this administrative regulation.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) DEP 7059: "Solid Waste Transfer Station, Convenience Center, and Recycling Center" (June 1999);

(b) DEP 7059-A: "Solid Waste Composting Facility" (June 1999);

(c) DEP 7059-E: "Class I Solid Waste Landfarm" (June 1999);

(d) DEP 7059-H: "Less-than-one-acre Construction/Demolition Debris" (June 1999);

(e) DEP 7059-J: "Solid Waste Incinerator" (June 1999);

(f) DEP 7064: "Annual Report for a Class I Solid Waste Landfarm" (June 1999);

(g) DEP 7108: "Annual Report for a Solid Waste Composting Facility" (June 1999); and

(h) DEP 7046: "Annual Waste Quantity Report" (May 1999).

(2) This material may be inspected, copied, or obtained at the Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or at any of the division's field offices Monday through Friday, 8 a.m. to 4:30 p.m.: 1508 Weston, Bowling Green, Kentucky 42104; 102 Burkesville Street, Columbia, Kentucky, 42728; 8020 Ewing Boulevard, Suite 110, Florence, Kentucky, 41042; 233 Birch Street, Hazard, Kentucky 41701; Regional State Office Building, 85 State Police Road, Room 345, London, Kentucky 40741; 312 Whittington Parkway, Suite 201, Louisville, Kentucky 40222-4925; Madisonville State Office Building, 625 Hospital Drive, Madisonville, Kentucky 42431; 200 Christy Creek Road, Suite 2, Morehead, Kentucky 40351; 4500 Clarks River Road, Paducah, Kentucky, 42003. [Contents of the Registration [Form] for a Registered Permit-by-rule. The registration [contents of a form prescribed by the cabinet] for a registered permit-by-rule shall contain:

(1) A description of the management, processing, or disposal activities;

(2) The name and mailing address of the facility;

(3) The location of the waste site or facility; [and]

(4) The type of waste managed at the facility, with an estimate of the quantity, measured in tons, and sources of the [such] wastes to be managed annually;

(5) [; and] A general description of the methods of management for each waste;

(6) The disclosure statement required by KRS 224.40-330(2); and

(7) for a less than one (1) acre construction/demolition debris landfill, the bond required by KRS 224.40-120.]

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: June 10, 1999

FILED WITH LRC: June 10, 1999 at 4 p.m.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Environmental Protection
Division of Waste Management
(As Amended at ARRS, July 13, 1999)

401 KAR 48:320. Operating requirements for less than one (1) acre construction/demolition debris landfills.

RELATES TO: KRS 224.01-010, 224.10-100, 224.10-105, 224.40-100, 224.40-110, 224.40-120, 224.40-305, 224.40-310, 224.40-315, 224.40-320, 224.40-325, 224.40-330, 224.40-340, 224.40-605, 224.40-650, 224.43-010, 224.43-020, 224.43-070, 224.43-310, 224.43-315, 224.43-330, 224.43-340, 224.43-345, 224.43-350, 224.70-100, 224.70-110, 224.99-010, 224.99-020 [224.01, 224.10, 224.40, 224.43, 224.70, 224.99]

STATUTORY AUTHORITY: KRS 224.10-100(19)(c), (24), 224.40-100, 224.40-120, 224.40-305, 224.40-330, 224.40-605[; 224.50-760]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(19)(c), (24), 224.40-120, 224.40-305, 224.40-330, and 224.40-605 authorize the cabinet to promulgate [Chapter 224 requires the cabinet to adopt] administrative regulations for the management, processing and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing and disposal of waste obtain a permit. [This chapter establishes the minimum technical standards for solid waste sites or facilities. An overview of the permit program is found in 401 KAR 47:080, Section 1.] This administrative regulation establishes the technical requirements for less than one (1) acre construction/demolition debris landfills.

Section 1. Applicability. This administration regulation applies to owners and operators of less than one (1) acre construction/demolition debris landfills. The owner or operator of a less than one (1) acre construction/demolition debris landfill shall operate the facility in accordance with the requirements of this administrative regulation.

Section 2. Requirement to Obtain a Registered Permit-by-rule. The owner or operator of a less than one (1) acre construction/demolition debris landfill shall not begin construction or accept [disposal of] waste until the registered permit-by-rule for the facility has become effective as specified in 401 KAR 47:110.

Section 3. Construction Requirements. The owner or operator of a less than one (1) acre construction/demolition debris landfill located inside a wellhead protection area, as described in defined in 401 KAR 5:002, Section 1, [5:037] shall construct and maintain a [the following] liner and leachate collection system [systems].

(1) The liner shall:

(a) [(+) Be constructed of soil;

1. With a minimum thickness of twelve (12) inches; and

2. That includes [; in addition, the soil shall include] a low permeability soil component with a minimum of twelve (12) contiguous inches of 1 x 10⁻⁷ centimeters per second maximum permeable material, or its equivalent; and

(b) [- The liner shall] Cover the bottom and sidewalls of the facility, with the bottom liner [shall be] sloped toward a leachate collec-

tion system that complies with subsection (3) of this section.

(2) A [Contain a minimum of twelve (12) inches of soil compacted to ninety (90) percent of standard proctor, or a layer of equivalent performance. The soils shall be placed in six (6) inch thick lifts. An] professional engineer, licensed [registered] in Kentucky pursuant to KRS [Chapter] 322.040, shall oversee the design and installation of the liner, including moisture and density tests, and shall certify that the liner meets the compaction requirements. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner. [- and]

(3) The leachate collection system shall:

(a) Have [(2) Contain a leachate collection system with] a minimum of a twelve (12) inch layer of gravel, or a layer of equivalent performance, and a toe-drain; and

(b) [- The leachate shall] Be discharged into a collection tank with a minimum capacity of 1000 [2000] gallons [capacity].

(4) A professional engineer licensed [registered] in Kentucky, pursuant to KRS [Chapter] 322.040, shall oversee the design and installation of the leachate collection system, and shall certify that the collection tank meets the capacity requirement. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner.

Section 4. Operating Requirements. (1) The owner or operator of a less than one (1) acre construction/demolition debris landfill shall comply with the following operating requirements:

(a) [(+) Comply with] The environmental performance standards of 401 KAR 30:031;

(b) [(2) Comply with] The siting requirements of 401 KAR 48:050, Sections 1, 2, and 3;

(c) The [(3) There is a] liner and a leachate collection system as specified in Section 3 of this administrative regulation, if the landfill is to be located in a wellhead protection area;

(d) [(4) Comply with] The groundwater protection plan requirements of 401 KAR 5:037;

(e) [(5) Comply with] The [disposal] requirements of KRS 224.40-120;

(f) [(6) Comply with] The operator certification requirements established pursuant to [of] KRS 224.40-605; and

(g) [(7) Comply with] The annual report requirement of 401 KAR 47:110, Section 2(3).

(2) The owner or operator of a less than one (1) acre construction/demolition debris landfill shall:

(a) Dispose only of construction material as defined in 401 KAR 48:005, Section 1(37);

(b) Not dispose of electrical fixtures containing hazardous liquids, such as fluorescent light ballasts or transformers;

[(8) Not dispose of:

(a) Asbestos-containing materials;

(b) Petroleum-contaminated soil;

(c) Tires;

(d) Appliances;

(e) Furniture;

(f) Light fixtures;

(g) Electrical devices;

(h) Buckets or other containers (unless processed to prevent the entrapment of water);

(i) Cardboard;

(j) Paper;

(k) Wood generated during demolition that has been chipped or otherwise processed; or

(l) Any other nonconstruction/demolition debris material unless approved by the cabinet;

(c) [(9) Properly dispose of any non-construction/demolition debris landfill waste at a properly permitted disposal facility;

(d) During operation [(10) clearly delineate the horizontal boundary [of the less than one (1) acre site] with slats, stakes or other types of easily identifiable permanent markers to show [such] that the constructed boundary is within the permitted boundary;

(e) [(11) Install silt fencing, hay bales, or other appropriate best management practices to prevent sediment from leaving any area disturbed by construction, including stockpiled soil and borrow pit areas. The sediment controls shall be kept in good operating order;

(f) [(12)] Only accept waste from sources listed in the registration and approved by the cabinet. Wastes may be added by submitting a revised registration pursuant to 401 KAR 47:110, Section 3(3);

(g) [(13)] Place the waste in layers, two (2) feet [foot] thick[;] or smaller, [lifts] and compact each layer thereafter [weekly];

(h) [(14)] Cover each ten (10) foot lift [the waste] with a minimum of six (6) inches compacted soil [once a week];

(i) [(15)] Maintain a buffer zone of 750 yards from any other less than one (1) acre [the] construction/demolition debris landfill permitted [waste] boundary [and any other waste site or facility, including but not limited to another construction/demolition debris landfill]; and

(j) Remove [(16)] Be responsible for removing landfill debris, mud and waste from off-site roadways.

Section 5. Closure Requirements. The owner or operator of a less than one (1) acre construction/demolition debris landfill shall close the facility as follows:

(1) The landfill shall be covered with a soil cap, two (2) feet thick, and the entire disturbed area shall be vegetated within thirty (30) days of ceasing to accept waste.

(a) The vegetation shall consist of:

1. A minimum of two (2) legumes;

2. One (1) annual grass; and

3. One (1) perennial grass, in sufficient poundage to provide at least ninety (90) percent ground coverage for the disturbed area.

(b) The grass seed shall be covered with at least one and one-half (1.5) tons of straw mulch or an alternative that delivers equivalent performance per acre.

(c) The straw mulch or its alternative shall be stabilized with netting on slopes that exceed fifteen (15) percent.

(d) The final cap shall have a slope of between five (5) percent and twenty-five (25) percent upon completion of the final grading.

(2) The [facility] owner or operator of a less than one (1) acre construction/demolition debris landfill shall record a notice, with the property deed, on which the less than one (1) acre construction/demolition debris landfill is located. The notice shall notify, in perpetuity, any potential purchaser of the property of the landfill's [facility's] location and dates of operation, the nature of the waste disposed [at the facility], and impose a restriction against any [future] disturbance of the cap. The notice shall be recorded in accordance with KRS Chapter 382 and proof of recording shall be submitted to the cabinet prior to the cabinet's approval of closure.

(3) The [facility] owner or operator of a less than one (1) acre construction/demolition debris landfill shall, upon completion of closure of the facility, contact the cabinet for a closure inspection and release of the bond, described in 401 KAR 48:310.

(4) Closure shall be completed no later than thirty (30) days after last receipt of waste.

Section 6. Corrective Action Requirements. If the cabinet determines that a threat to human health, safety[;] or the environment exists, the owner or operator of a less than one (1) acre construction/demolition debris landfill [the facility] shall conduct corrective action in accordance with 401 KAR 48:300, Section 8. The owner or operator shall certify to the cabinet that corrective action has been completed in accordance with this section. The cabinet shall determine that corrective action has been completed before releasing the bond.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 10, 1999
FILED WITH LRC: June 10, 1999 at 4 p.m.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(As Amended at ARRS, July 13, 1999)

405 KAR 10:010. General requirements for performance bond and liability insurance.

RELATES TO: KRS 350.020, 350.060, 350.062, 350.064, 350.151, 350.465, 30 CFR Parts 730-733, 735, 800.11, 800.60, 917, 30 USC 1253, 1255

STATUTORY AUTHORITY: KRS [Chapter—13A;] 350.020, 350.028, 350.060, 350.064, 350.151, 350.465, 30 CFR Parts 730-733, 735, 800.11, 800.60, 917, 30 USC 1253, 1255

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028(1), (5), 350.151(1), and 350.465(2) authorize the cabinet to promulgate administrative regulations relating to surface and underground coal mining operations. This administrative regulation establishes the requirements for filing and maintaining performance bonds and liability insurance, and bonding methods. [Chapter 350 in pertinent part requires the cabinet to regulate surface coal mining and reclamation operations, including requiring bond sufficient to insure satisfactory reclamation. This administrative regulation sets forth the general requirements for performance bonds and liability insurance. This administrative regulation further sets out general minimum requirements for filing and maintaining bonds and insurance for surface coal mining and reclamation operations, and general requirements for various bonding methods.]

Section 1. Applicability. This chapter sets forth the minimum requirements for filing and maintaining performance bonds and insurance for surface coal mining and reclamation operations under KRS Chapter 350.

Section 2. Requirement to File a Bond. (1) An applicant shall not disturb surface acreage or extend any underground shafts, tunnels, or operations prior to receipt of approval from the cabinet of a performance bond covering areas to be affected by surface operations and facilities.

(2) After an application for a new, amended, revised or renewed permit to conduct surface coal mining and reclamation operations has been approved under 405 KAR Chapter 8, but before the permit is issued, the applicant shall file with the cabinet, on a form prescribed and furnished by the cabinet, a performance bond payable to the cabinet. The applicant shall file the form designated at Section 5(1)(a) of this administrative regulation for operations on lands other than federal lands, or the form designated at Section 5(1)(g) of this administrative regulation for operations on federal lands. The performance bond shall be conditioned upon the faithful performance of all the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the provisions of the reclamation plan and permit, and shall cover all surface coal mining and reclamation operations to be conducted within the permit area or increment thereof until all reclamation requirements of 405 KAR Chapters 7 through 24 have been met. The amount, duration, type, conditions and terms of the performance bond shall conform to 405 KAR 10:020 and 405 KAR 10:030.

(3) No permit shall be revised or amended to include additional area unless the liability of the current bond(s) is extended to cover the entire permit area or increment as revised or amended, and the liability of the supplemental bond(s) covers the entire permit area as revised or amended. Unless these conditions are met with respect to the bond(s), the additional area shall be permitted as a separate increment of the current permit area or under a new permit.

(4) A rider to the applicable performance bond, confirming coverage of the revision, shall be submitted by the applicant if a revision to a permit does not change the acreage of the permit area or increment but:

- (a) Adds a coal washer, a crush and load facility, a refuse pile, or a coal mine waste impoundment to the existing permit; or
- (b) Alters the boundary of a permit area or increment.

Section 3. Bonding Methods. The method of performance bonding for a permit area shall be selected by the applicant and approved by

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the cabinet prior to the issuance of a permit, and shall consist of one (1) of the following methods:

(1) Method "S" - single area bonding. A single area bond is a bond which covers the entire permit area as a single undivided area, for which the applicant shall file the entire bond amount required by the cabinet prior to issuance of the permit. Liability under the bond shall extend to every part of the permit area at all times. Except as provided in 405 KAR 10:020, Section 3(2) regarding extended bond liability, there shall be no release of all or part of the bond amount for completion of a particular phase of reclamation on any part of the permit area under 405 KAR 10:040 until that phase of reclamation has been successfully completed on the entire permit area.

(2) Method "I" - incremental bonding. Incremental bonding is a method of bonding in which the permit area is divided into individual increments, each of which is bonded separately and independently, and for which bond is filed as operations proceed through the permit area.

(a) The permit area shall be divided into distinct increments which shall be subject to approval by the cabinet. Each increment shall be of sufficient size and configuration to provide for efficient reclamation operations should reclamation operations by the cabinet become necessary. If the approved postmining land use is of such nature that successful implementation of the postmining land use capability depends upon an area being integrally reclaimed, then that area shall be contained within a single increment. These increments shall be clearly identified on maps submitted in the permit application under 405 KAR Chapter 8, and the applicant shall describe the approximate time schedule for beginning operations in each increment.

(b) Prior to issuance of a permit, the applicant shall file with the cabinet the full bond amount required by the cabinet for the first increment or increments of the permit area to be disturbed, which shall be not less than the minimum bond required for the permit area required under 405 KAR 10:020, Section 2.

(c) The permittee shall not engage in any surface coal mining and reclamation operations on any increment of the permit area unless [and until] the full bond amount required by the cabinet has been filed with the appropriate regional office of the department for that increment, the cabinet has verified the validity of the bond, and written authorization to conduct surface coal mining and reclamation operations on that increment is issued by the administrator of the regional office. No credit shall be given for reclamation on other increments.

(d) The boundaries of each increment shall be physically marked at the site in a manner approved by the cabinet.

(e) The bond amount for an increment shall be released or forfeited independently of any other increment of the permit area, and liability under the performance bond shall extend only to the increment expressly covered by the bond. A single bond amount may be filed to cover more than one (1) increment, in which case the increments so covered shall be treated as a single increment.

(f) Except as provided in 405 KAR 10:020, Section 3(2) regarding extended bond liability, there shall be no release of bond for completion of a phase of reclamation on any part of an increment until that phase of reclamation has been successfully completed on the entire increment.

(g) When the bond for an increment is completely released under 405 KAR 10:040, the increment shall be deleted from the permit area.

Section 4. Requirement to File a Certificate of Liability Insurance. Each applicant for a permit shall submit to the cabinet, as part of the permit application, a certificate issued by an insurance company authorized to do business in Kentucky. The amount, duration, form, conditions and terms of this insurance shall conform to 405 KAR 10:030.

Section 5. Incorporation [Documents Incorporated] by Reference. (1) The following material is [forms are hereby] incorporated by reference:

(a) "Performance Bond, Form SME-42, (June, 1999)", Department for Surface Mining Reclamation and Enforcement.

(b) "Irrevocable Standby Letter of Credit, Form SME-72, (July, 1994)", Department for Surface Mining Reclamation and Enforcement.

(c) "Confirmation of Irrevocable Standby Letter of Credit, Form

SME-72-A, (July, 1994)", Department for Surface Mining Reclamation and Enforcement.

(d) "Certificate of Liability Insurance, Form SME-29", Department for Surface Mining Reclamation and Enforcement.

(e) "Notice of Cancellation, Nonrenewal or Change of Liability Insurance, Form SME-30", Department for Surface Mining Reclamation and Enforcement.

(f) "Escrow Agreement, Form SME-64, (May, 1991)", Department for Surface Mining Reclamation and Enforcement.

(g) "Performance Bond for Surface Coal Mining and Reclamation on Federal Lands, Form SME-42-F, (June, 1999)", Department for Surface Mining Reclamation and Enforcement.

[(1) Performance Bond, SME-42, February, 1991.

(2) Irrevocable Standby Letter of Credit, SME-72, July, 1994.

(3) Confirmation of Irrevocable Standby Letter of Credit, SME-72-A, April, 1991.

(4) Certificate of Liability Insurance, SME-29.

(5) Notice of Cancellation, Nonrenewal or Change of Liability Insurance, SME-30.

(6) Escrow Agreement, SME-64, May, 1991.]

(2) This material [(7) These forms] may be inspected, copied, [reviewed] or obtained at the Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: April 30, 1999

FILED WITH LRC: May 3, 1999 at 11 a.m.

JUSTICE CABINET

(As Amended at ARRS, July 13, 1999)

502 KAR 12:010. Sexual assault [nurse-examiner] medical protocol.

RELATES TO: KRS 216B.400 [Chapter 216B]

STATUTORY AUTHORITY: KRS 15A.160, 216B.400(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 216B.400(2) authorize the cabinet to promulgate administrative regulations developing a statewide medical protocol for sexual assault examinations. This administrative regulation establishes the procedures to be followed by medical staff before, during, and after the examination of a victim of a sexual assault. [KRS 15A.160 and 216B.400 provide that the Secretary of the Justice Cabinet may promulgate such administrative regulations as are necessary to properly administer the cabinet, that the chief medical examiner shall develop a statewide medical protocol for sexual assault examinations, and that the Secretary of Justice shall promulgate administrative regulations regarding sexual assault protocol in conformity with KRS Chapter 13B. This administrative regulation describes the procedures that shall be implemented by facility staff when they are presented with a victim of sexual assault. These administrative regulations set forth the conduct of the facility staff prior to the forensic sexual assault examination, during the examination and after the examination.]

Section 1. Definitions. (1) "Facility" means a hospital emergency room, or any facility established for the purpose of providing medical care and collecting forensic evidence for victims or sexual assault.

(2) "Rape crisis center advocate" means a victim advocate who:

(a) Has met the requirements of KRS 421.570; and

(b) Works for a rape crisis center regulated by the Cabinet for Health Services, pursuant to KRS 210.410, 210.450, and 908 KAR 2:070.

(3) "Victim" means a person who reports or has suffered direct, threatened, or attempted physical or emotional harm from the commission or attempted commission of:

(a) A sexual offense, pursuant to KRS Chapter 510;

(b) Incest, pursuant to KRS 530.020;

(c) An assault or related offense, pursuant to KRS Chapter 508;

(d) An offense relating to:

1. The use of a minor in a sexual performance, pursuant to KRS 531.310;

2. Promoting a sexual performance by a minor, pursuant to KRS 531.320; or

3. An unlawful transaction with a minor, pursuant to KRS 530.064, 530.065, or 530.070; or

(e) An offense that endangered the welfare of an incompetent person, pursuant to KRS 530.080. ["Victim" means an individual who reports or appears to suffer direct, threatened, or attempted physical or emotional harm as a result of the commission or attempted commission of a sexual offense pursuant to KRS Chapter 510, incest pursuant to KRS 530.020, an assault or related offense pursuant to KRS Chapter 508, the use of a minor in a sexual performance pursuant to KRS 531.310, promoting sexual performance by a minor pursuant to KRS 531.320, an unlawful transaction with a minor pursuant to KRS Chapter 530, and endangering the welfare of an incompetent person pursuant to KRS 530.080.

(2) "Rape crisis center advocate" means an individual defined and trained pursuant to KRS 421.570 and who works for the Rape Crisis Center as defined and regulated by the Cabinet for Health Services pursuant to KRS 210.410, 210.450 and 908 KAR 2:070.

(3) "Facility" means a hospital emergency room, or any facility established for the purpose of providing medical care and collecting forensic evidence for victims of sexual assault.]

Section 2. Preforensic Examination Procedure. When a victim reporting **one (1) [any]** of the designated offenses described in Section 1 of this administrative regulation arrives at a **health** facility, the following process shall be completed and documented by the appropriate staff at the facility prior to conducting the forensic examination:

(1) Contact the rape crisis center to inform the on call advocate that a victim has arrived at the **health** facility for an examination;

(2) Ask **if** the victim **[if she or he]** wishes to have a rape crisis center advocate present for the examination.

(3) Inform the victim that all statements made during the interview, and the evidence collection process, to physicians, nurses, other hospital personnel, law enforcement officers or to rape crisis center advocates are not privileged and may be disclosed;

(4) Provide a detailed explanation of the forensic examination, the reasons for conducting the exam and the effect on a criminal prosecution if a forensic examination is not performed;

(5) Advise the victim that photographs and other documentation may be used as evidence and that the photographs may include the genitalia;

(6) Advise the victim that **the forensic examination shall be conducted free of charge, but costs related to medical treatment may be incurred;** ~~[she or he will not have to pay for the forensic examination, but may incur costs related to medical treatment;]~~

(7) Inform the victim that **consent for the forensic evidence collection process may be withdrawn at any time during the examination;** ~~[she or he may withdraw his or her consent for the forensic evidence collection process at any time during the examination;]~~

(8) Inform the victim of the need for a physical examination due to the risk of sexually transmitted diseases, pregnancy, injury or other medical problems whether or not the victim chooses to have the evidence collected;

(9) Obtain documented consent from the victim prior to conducting the forensic rape examination.

Section 3. The Forensic Examination. (1) A physical examination may be conducted for the collection of evidence in all cases of sexual assault, regardless of the length of time which may have elapsed between the time of the assault and the examination itself;

(2) If the sexual assault occurred within ninety-six (96) hours prior to the forensic examination, a Kentucky State Police Sexual Assault Evidence Collection Kit shall be used. This kit consists of:

(a) Instructions;

(b) Evidence envelope;

(c) Comb; and

(d) Swabs; ~~[The Kentucky State Police Sexual Assault Evidence Collection Kit shall be used if the sexual assault occurred within 96 hours prior to the forensic examination;]~~

(3) Personnel in attendance during the forensic examination shall be limited to the **following persons:**

(a) Examining physician or sexual assault nurse examiner, as defined in KRS 314.011(14);

(b) ~~[, the]~~ Attending nurse;

(c) **[a]** Rape crisis center advocate; and

(d) Other persons **who are:**

1. Dictated by the health needs of the victim; or

2. Requested by the victim; ~~[as dictated by the health needs or requested by the victim;]~~

(4) Photographs including photographs of the genitalia may be taken if the appropriate equipment is available at the **health** facility and the victim has consented to having photographs taken;

(5) The following types of evidence may be collected during the examination:

(a) Hairs from the head or pubic region;

(b) Fingernail cuttings;

(c) Clothing fibers, or other trace evidence;

(d) Bodily fluids, including:

1. Semen;

2. Blood; and

3. Saliva;

(e) Clothing; and

(f) Other evidence that could be presented at a trial; ~~[Evidence to be collected may include but is not limited to hairs from the head or pubic region; fingernail cuttings; fibers, or other trace evidence; bodily fluids such as semen, blood and saliva; or; clothing;]~~

(6) **[No]** Evidence shall **not** be collected if the victim is unconscious unless the collection is consistent with appropriate and necessary medical treatment;

(7) The collection of evidence shall cease immediately if the victim dies during ~~[any part of]~~ the process.

(8) The coroner shall be contacted if the victim dies during ~~[any part of]~~ the collection of evidence process and the evidence collected up to that time shall be delivered to the coroner or the designee of the coroner;

(9) The coroner shall be notified in accordance with the law and **[no]** evidence shall **not** be collected if the victim is deceased upon arrival.

Section 4. Postforensic Examination Procedures. At the conclusion of the forensic examination the appropriate personnel at the **health** facility shall provide the **victim** ~~[victims]~~ with:

(1) Information regarding follow-up procedures and appointments concerning:

(a) Sexually transmitted diseases;

(b) Pregnancy;

(c) Urinary tract or other infections; **and**

(d) Similar ~~[other]~~ assault related health conditions;

(2) Information regarding the availability of follow-up counseling and support services available from **a** rape crisis **center** ~~[centers]~~ or other mental health **agency** ~~[agencies]~~;

(3) Information from the law enforcement officer regarding who to contact about the prosecution of the offense;

(4) A garment or other appropriate clothing to **wear in leaving the hospital, or provide assistance in obtaining other personal clothing;** ~~[ensure that the victim has appropriate clothing in which to leave the hospital or provide assistance in obtaining other personal clothing;]~~

(5) Information about:

(a) The Crime Victim's Compensation Board, as **addressed** ~~[contained]~~ in KRS Chapter 346; and

(b) **The following administrative regulations providing aid to a crime victim:**

1. 107 KAR 1:005;

2. 107 KAR 1:010;

3. 107 KAR 1:015;

4. 107 KAR 1:025; and

5. 107 KAR 1:040. [~~relevant administrative regulations 107-KAR Chapter 1-~~]

PAMELA J. MURPHY, Acting Secretary
BARBARA W. JONES, General Counsel
APPROVED BY AGENCY: March 15, 1999
FILED WITH LRC: March 15, 1999 at 9 a.m.

EDUCATION, ARTS, AND HUMANITIES CABINET

Kentucky Board of Education

Department of Education

Bureau of Learning Support Services

**(As Amended at the Education Assessment and
Accountability Review Subcommittee, July 1, 1999)**

703 KAR 5:020. The formula for determining school performance classifications and school rewards.

RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455, 158.6457

STATUTORY AUTHORITY: KRS 156.070, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 requires the Kentucky Board of Education to promulgate administrative regulations to establish a system for identifying and rewarding successful schools and to establish appropriate consequences for schools failing to meet or exceed their assistance line. This administrative regulation establishes procedures for determining successful schools, school rewards, and classifications of schools within the school accountability program.

Section 1. Definitions. (1) "Academic index" means the summary statistic or index which describes school success on the academic goals one (1), two (2), five (5), and six (6) set forth in KRS 158.6451(1)(b).

(2) "Accountability index" means the statistic defined in KRS 158.6457(1).

(3) "Accountability level" means elementary (grades end of primary, four (4), and five (5)), middle (grades six (6), seven (7), and eight (8)), or high school (grades nine (9), ten (10), eleven (11), and twelve (12)).

(4) "Assistance line" means that unique line for a school that starts in the biennium ending with the school year 2001-2002 at one (1) standard error of measurement below the school's baseline accountability index to a point that is one (1) standard error of measurement below eighty (80) on the accountability index scale in the biennium ending with the school year 2013-2014. The [Points] calculated points defining this line shall be rounded to the nearest tenth. If a school's baseline is above eighty (80), the assistance line is [means] a horizontal line at eighty (80) minus one (1) standard error of measurement.

(5) "Alternate portfolio" means that component of the assessment system designed for students with legally identified disabilities who cannot with the assistance of adaptive devices available participate in the regular curriculum.

(6) "Alternate portfolio scores" means the scores assigned by teachers, or scores reassigned through state scoring review procedures, to a collection of best pieces of student work assembled through the instructional process.

(7) "Baseline accountability index" means the accountability index score that describes the school's average performance during the 1998-99 and 1999-2000 school years, and is that number against which progress shall be measured.

(8) "Gained population" means students in grades at which accountability assessments are administered who now attend a different school because of service area boundary changes or other local board of education policy changes affecting the school population served.

(9) "Goal line" means a fixed line that extends from a point that is one (1) standard error of measurement below school's baseline index to a point that is one (1) standard error of measurement below the state goal established for the target biennium. Points calculated

defining this line shall be rounded to the nearest tenth. In any biennium, a school's growth accountability index shall be at or above this line in order to achieve a classification of meets goal in recognition of growth.

(10) "Growth accountability index" means the average accountability index that describes the school's performance every two (2) years beginning with the 2000-2001 and 2001-2002 school years.

(11) "Lost population" means students in grades at which accountability assessments are administered who no longer can attend a particular school because of service area boundary changes or other local board of education policy changes affecting school population served.

(12) "Nonacademic index" means the statistic which describes school success on the nonacademic goals set forth in KRS 158.6451(1)(c), (d), and (f).

(13) "Reward share" means the unit of money to be distributed to schools, and is determined by the total amount of the money available for rewards in a biennium and the total number of shares to be awarded.

(14) "School classification" means the status of a school or school district, including meets goal, progressing, or in need of assistance based on measures of growth.

(15) "School" means an A1 school as defined in 703 KAR 5:040, Section 1(1).

(16) "School recognition points" means those points as defined in this administrative regulation for the purpose of recognizing school standing.

(17) "Stable population" means students in grades at which accountability assessments are administered who would have attended the school prior to and after any service area boundary changes or other local board of education policy changes affecting school population served.

(18) "Standard error of measurement" means, for purposes of the assistance line or the goal line, the statistic derived from the baseline calculations taking into account appropriate sources of measurement error and number of students assessed.

(19) "Standing of a school" means the actual performance of a school as measured by the accountability index.

(20) "State goal" means 100 on the accountability index scale which all schools are expected to meet by the target biennium.

(21) "Student achievement levels" means categories of student learning in each of the content areas, including nonperformance, medium novice, high novice, low apprentice, medium apprentice, high apprentice, proficient, or distinguished.

(22) "Target biennium" means the biennium by the end of which schools are expected to reach the state goal, which is the biennium ending with the 2013-2014 school year.

(23) "Threshold" means the point on the goal line corresponding to the end year of the biennium.

(24) "Writing of portfolio scores" means the scores assigned by teachers, or scores reassigned through portfolio scoring audit procedures, to a collection of a student's best work.

Section 2. Academic and Nonacademic Index Calculations. (1) The points assigned to students scoring at each student achievement level and sublevel for purposes of computing the academic indices for a particular content area shall include:

(a) Nonperformance - if a total open-response raw score of less than one (1), and multiple-choice total raw score that is less than chance performance and the score converts to less than medium novice, it shall be assigned a score of zero. For the writing or alternate portfolio, a blank or incomplete response shall be assigned a score of zero;

(b) Medium novice (reading, mathematics, science, social studies, alternate portfolio, writing on-demand prompt, writing portfolio, arts and humanities, practical living and vocational studies) shall be assigned a score of thirteen (13);

(c) High novice (reading, mathematics, science, and social studies) shall be assigned a score of twenty-six (26);

(d) Low apprentice (reading, mathematics, science, and social studies) shall be assigned a score of forty (40);

(e) Medium apprentice (reading, mathematics, science, social studies, alternate portfolio, writing on-demand prompt, writing portfolio)

lio, arts and humanities, practical living and vocational studies) shall be assigned a score of sixty (60);

(f) High aptitude (reading, mathematics, science, and social studies) shall be assigned a score of eighty (80);

(g) Proficient in all content areas shall be assigned a score of 100, or distinguished in all content areas shall be assigned a score of 140.

(2) For all content areas except writing, the scores derived from the Kentucky Core Content Test shall be based on a scoring method that assigns sixty-seven (67) percent of the weight of the scores from open-response items and thirty-three (33) percent of the weight from multiple-choice items. The writing score shall be based on the writing prompt and the writing portfolio.

(3) The values for attendance rate and successful transition to adult life rate shall be the actual percentage reported. The values entered into formula calculations for retention rate and dropout rate shall be 100 minus the actual percentage calculated. Nonacademic data for a particular assessment year shall be calculated using the data from the previous school year. Nonacademic data shall be based on all grades within a school building generating appropriate data as follows:

(a) Attendance, primary through grade twelve (12);

(b) Retention rates, grades four (4) through twelve (12);

(c) Dropout rates, grades seven (7) through twelve (12); and

(d) Successful transition to adult life for the graduating students.

(4) Scores from alternate portfolios shall be included in the academic indices so that the data from an alternate portfolio completed by a student eligible to participate with an alternate portfolio contributes the same weight to the academic component of the accountability index as would the data for a student participating in the regular components of the assessment program at the elementary, middle, or high school levels.

Section 3. Components of the Accountability Index and Weights.

(1) The accountability index shall consist of two (2) components. Component one (1) consists of academic indices and the nonacademic index. Component two (2) shall be an index created from a national norm-reference test [assessment] (NRT). Component one (1) shall comprise ninety-five (95) percent of the total index. Component two (2) shall comprise five (5) percent of the index.

(2) The accountability index shall be rounded to the nearest tenth on the accountability scale.

(3) Computing the academic index for each of the content areas of writing, reading, mathematics, science, social studies, arts and humanities, and practical living and vocational studies shall be based on the average of student scores as described in Section 2(1) of this administrative regulation. Component one (1) of the accountability index shall be calculated according to the following weights:

(a) Elementary school (grades end of primary - five (5))

Content Area	Component One (Without NRT)	Component One and Two (With NRT)
Reading	20%	19.00%
Mathematics	20%	19.00%
Science	15%	14.25%
Social studies	15%	14.25%
Writing (15%)		
Writing On-Demand Prompt	3%	2.85%
Writing Portfolio	12%	11.40%
Arts and Humanities	5%	4.75%
Practical Living and Vocational Studies	5%	4.75%
Nonacademic Index (5%)		
Attendance Rate	4%	3.80%
Retention Rate	1%	0.95%
National-Norm Referenced Test	(Not Applicable)	5.00%
	100%	100.00%

(b) Middle school (grades six (6) - eight (8))

Content Area	Component One (Without NRT)	Component One and Two (With NRT)
Reading	15%	14.25%
Mathematics	15%	14.25%
Science	15%	14.25%
Social studies	15%	14.25%
Writing (15%)		
Writing On-Demand Prompt	3%	2.85%
Writing Portfolio	12%	11.40%
Arts and Humanities	7.5%	7.125%
Practical Living and Vocational Studies	7.5%	7.125%
Nonacademic Index (10%)		
Attendance Rate	4%	3.80%
Retention Rate	4%	3.80%
Dropout Rate	2%	1.90%
National-Norm Referenced Test	(Not Applicable)	5.00%
	100%	100%

(c) High school (grades nine (9) - twelve (12))

Content Area	Component One (Without NRT)	Component One and Two (With NRT)
Reading	15%	14.25%
Mathematics	15%	14.25%
Science	15%	14.25%
Social studies	15%	14.25%
Writing (15%)		
Writing On-Demand Prompt	3%	2.85%
Writing Portfolio	12%	11.40%
Arts and Humanities	7.5%	7.125%
Practical Living and Vocational Studies	7.5%	7.125%
Nonacademic Index (10%)		
Attendance Rate	2%	1.90%
Retention Rate	0.5%	0.48%
Dropout Rate	3.75%	3.56%
Successful Transition to Adult Life	3.75%	3.56%
National-Norm Referenced Test	(Not Applicable)	5.00%
	100%	100%

(4) The academic index for each content area and the nonacademic index shall be determined by summing the indices as described in this section.

(5) Component one (1) of the accountability index shall be calculated by aggregating the data from all of the students in the school.

(6) Component two (2) of the accountability index shall be derived from the national norm referenced assessment as follows:

(a) Student performance standards comparable to those used in component one (1) and described in Section 2 of this administrative regulation shall be established by the end of the year 2000.

(b) Scores shall be associated with each performance level as described in Section 2 of this administrative regulation; and

(c) The component two (2) index shall be based on the average of the scores.

Section 4. Schools Not Conforming to the Standard Grade Configuration. (1) For the Kentucky Core Content Test, if a school does not have grades four (4) and five (5) at the elementary level, grades seven (7) and eight (8) at the middle school, or grades ten (10), eleven (11), and twelve (12) at the high school, the school shall be combined with the school or schools having the missing grade(s) its students previously attended or would subsequently attend, forming a single school accountability unit.

(2) A school that does not contain a grade at which the national norm-referenced **test [assessment]** is administered shall have its accountability index calculated using only the weights specified as component one (1) of the index in Section 3 of this administrative regulation. Schools that have more than one (1) grade at which the national norm-referenced **test [assessment]** is administered shall have those grades combined to form the basis for component two (2) of the calculations described in Section 3 of this administrative regulation.

(3) A school or school district may request a waiver of the requirements of subsections (1) and (2) of this section or from the normal configuration of schools (elementary, middle, or high school) from the Kentucky Board of Education specifying other combinations of schools and assessment data if all students in an accountability grade are included, and all schools are accountable for all content areas assessed. A condition for the granting of a waiver shall be that each affected school and school district shall waive in writing its right to make the school configuration for which it sought a waiver the basis of a subsequent appeal of a school's classification. A waiver request shall be received by the Kentucky Department of Education by June 30 of the year prior to the biennium for which the waiver is requested. For the biennium ending in school year 2000, a waiver request shall be received by the Kentucky Department of Education by September 1, 1999.

Section 5. Schools Having More than One (1) Accountability Level. If a school has more than one (1) accountability level, the school's accountability index shall be the average of the academic and nonacademic data for the school.

Section 6. School Service Area Reconfigurations. (1) If as a result of a change in service area boundaries or local board of education policies affecting student population served by a school, less than eighty (80) percent of a school's student population at its accountability grades is stable, the school shall be considered a reconfigured school. To determine if eighty (80) percent of the population is stable, the number of students in the stable population shall be divided by the sum of that number, plus the lost population, plus the gained population. If the result is less than eight-tenths (.8), the school shall be considered a reconfigured school.

(2) A school that would be considered a reconfigured school in the 1998-1999 school year shall be treated as if it were not reconfigured, with the exception that the nonacademic index for the district from the previous year at the corresponding level (elementary, middle, or high school) shall be substituted for that school's nonacademic data. Schools reconfigured after the 1998-1999 school year shall be assigned a baseline calculated from the 1998-1999 and 1999-2000 aggregate district level data for the appropriate level (elementary, middle, or high school).

(3) A school district shall notify the Department of Education of any school considered a reconfigured school as provided in this administrative regulation by September 30 of the school year in which the reconfiguration occurs. A school that is considered a reconfigured school in either year of a biennium after 2000 on which accountability decisions are based shall have the performance judgment that would have applied to the district at that level (elementary, middle, or high school), if separate decisions (elementary, middle, or high school) were to be applied at the district level. In the alternative, a school district may submit to the Department of Education a plan for reconstituting baseline data taking into consideration the changes in service areas. The plan shall assure that local district calculations are accurate and appropriately include all student data in both baseline and growth index calculations. The plan shall be submitted to the Department of Education at the same time the district notifies the Department of Education of the school reconfiguration. If the Department of Education approves the plan, it shall become effective and shall remain in effect unless a specific waiver from this reconfiguration arrangement is requested from and granted by the Kentucky Board of Education as provided in this administrative regulation. This alternative shall not be implemented until the affected schools have a complete biennium of data to be considered in the growth calculations. A condition for acceptance of the plan shall be that each affected school and school district shall waive in writing its right to make the plan the basis of a subsequent appeal of a school's classification.

(4) A school that has contained more than one (1) level (elementary, middle, or high school) and is reconfigured by removing an entire level of the accountability grades may request that the portion of the school remaining stable be considered within the accountability system using its established historical data.

(5) A school in transition because of a new building or a new policy, affecting population served and being phased in may request that the Department of Education establish data to maintain the continuity of accountability data if the request does not require the tracking of individual student data. This request shall require the approval of each affected school council, [{}or the principal, if a school does not have a council, {}] and the local board of education upon the recommendation of the superintendent.

Section 7. Accountability Procedures. (1) To establish expected levels of growth for each school, a straight line shall be drawn from a school's baseline minus one (1) standard error of measurement established in the 1998-1999 and 1999-2000 biennium to the state goal of a growth accountability index of 100 minus one (1) standard error of measurement by 2014.

(2) There shall be five (5) points of school recognition. These shall be determined from the baseline data (school years 1998-1999 and 1999-2000) so that at least ten (10) percent of the schools fall below the first point of recognition and the fifth recognition point shall be set at 100 on the accountability index scale, with the remaining points being established at equal whole number intervals between the high and the low.

Section 8. School Classifications Recognizing Growth. (1) To determine if a school is classified as meets goal, progressing, or in need of assistance, the school's growth accountability index for a biennium shall be compared to the corresponding goal point and assistance point.

(2) A school shall be classified as meets goal if the school's growth accountability index meets or exceeds its goal point and meets the dropout and novice reduction requirements of this section.

(3) To receive rewards under the provisions of this administrative regulation, a school shall have a biennial dropout rate less than or equal to five and three-tenths (5.3) percent, or a dropout rate that is at least one-half (1/2) of one (1) percent lower than its dropout rate of the previous biennium. A school shall not receive rewards if its dropout rate exceeds six (6) percent. If a school is reconfigured for a biennium, the school shall receive the aggregate district dropout rate for the biennium.

(4) To receive rewards under this administrative regulation, a school shall reduce the percent of novices on a schedule so that by the target biennium, the school shall have five (5) percent or less of its students scoring in the novice range of performance. The percent of novices shall be calculated to be reflective of the weights in Section 3 of this administrative regulation. The schedule shall be calculated by subtracting five (5) from the baseline percent novice and dividing this value by seven (7). The maximum allowable percent novice for each biennium shall be calculated as follows:

(a) Year 2002 = baseline percent novice minus the required novice reduction factor;

(b) Year 2004 = baseline percent novice minus the required novice reduction factor multiplied by two (2);

(c) Year 2006 = baseline percent novice minus the required novice reduction factor multiplied by three (3);

(d) Year 2008 = baseline percent novice minus the required novice reduction factor multiplied by four (4);

(e) Year 2010 = baseline percent novice minus the required novice reduction factor multiplied by five (5);

(f) Year 2012 = baseline percent novice minus the required novice reduction factor multiplied by six (6); and

(g) Year 2014 = baseline percent novice minus the required novice reduction factor multiplied by seven (7).

(5) A school shall be classified as a progressing school if the school's growth accountability index falls below its goal point and meets or exceeds its assistance point. A progressing school shall obtain an accountability index greater than that which it obtained in the previous biennium to earn a reward and other recognition as a progressing school.

(6) A school shall be classified as in need of assistance school if the school's growth accountability index falls below its assistance point. A school classified as being in need of assistance shall be eligible to apply for Commonwealth school improvement funds and may be subject to a scholastic audit.

(7) In 2002, the highest scoring five (5) percent of all schools shall be designated as Commonwealth pace-setter schools if they have met or exceeded the fourth point of recognition and if they meet the dropout rate and novice reduction requirements of this section [subsection (3) of this administrative regulation]. This calculation shall be based on the total accountability index of the school regardless of whether one (1), multiple, or no grades at which the norm-referenced test [assessment] is administered are included. If not otherwise receiving rewards in recognition for growth, a Commonwealth pace-setter school shall receive one (1) share of rewards. In addition, to be classified as a pace-setter school beginning with the biennium ending in 2004, a school shall not have declined in both of the two (2) previous biennia. The rewards that may be due a school for having passed a higher point of recognition shall be given in addition to this amount.

Section 9. Reward Amounts. (1) There shall be two (2) levels of rewards for growth. A school classified as meets goal in accordance with Section 8(2) of this administrative regulation shall earn three (3) shares of rewards. A school classified as progressing in accordance with Section 8(5) [(4)] of this administrative regulation shall earn one-half (1/2) share of rewards.

(2) A special one (1) time reward amount shall be distributed to schools as they meet or exceed school recognition points. These schools shall receive one (1) share of rewards and other forms of recognition as determined by the Kentucky Board of Education for meeting or exceeding each school recognition point.

(3) If a school passes two (2) or more of the school recognition points, in one (1) biennium, the reward shall be cumulative. A school shall be awarded these amounts only one (1) time for meeting or passing each point. A school earning this reward and subsequently falling below a recognition point shall not earn the reward for passing the point again.

(4) A school shall earn a recognition point reward based on where its baseline falls and shall not receive rewards for meeting or exceeding school recognition points below its baseline index.

(5) The total amount of rewards to be distributed to schools and school districts earning rewards shall not exceed one and three-fourths (1 3/4) [4-75] percent of the amount of funds paid to certified personnel within Kentucky's public schools during the last year of the accountability cycle. The total number of shares earned shall be divided into the amount determined pursuant to the subsection to determine the per share reward amount; however, a reward share shall not exceed \$2000. A reward share shall be distributed to a school that meets the requirements for rewards as specified in Section 8 of this administrative regulation. The number of shares earned shall be multiplied by the total number of certified staff, as provided in KRS 158.6455 and subsection (6) of this section, to determine the final reward amount, as follows:

(a) Meets goal: number of certified full-time equivalent (FTE) staff times three (3) shares;

(b) Progressing: number of certified full-time equivalent (FTE) staff times one-half (1/2) share;

(c) Pass one (1) school recognition point: number of certified full-time equivalent (FTE) staff times one (1) share; and

(d) Pace setter: number of certified full-time equivalent (FTE) staff times one (1) share.

(6) Beginning with rewards issued at the close of the 1999-2000 school year, a school shall earn rewards for use in the school based on the number of certified staff assigned to the school at the close of the biennium. A reward amount shall be determined based on the number of verified certified staff assigned to the school or combinations of schools earning the reward. A reward amount for part-time and itinerant staff shall be calculated based on the proportion of time spent in the school.

WILMER S. CODY, Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: June 4, 1999
FILED WITH LRC: June 4, 1999 at 10 a.m.

EDUCATION, ARTS AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended at ARRS, July 13, 1999)

704 KAR 20:470. Principal Intern Program.

RELATES TO: KRS 161.020, 161.027, 161.028

STATUTORY AUTHORITY: KRS 161.027, 161.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.027 requires a certificate of legal credentials for each public school position for which a certificate is issued. KRS 161.027 requires that an applicant for certification as school principal with less than two (2) years of appropriate service complete a one (1) year intern program. This administrative regulation establishes the procedures to implement the Principal Intern Program required under KRS 161.027.

Section 1. An applicant for principal certification requesting exemption from the Principal Intern Program as allowed by KRS 161.027 shall have successful principal experience confirmed by the school official responsible for evaluating the applicant during the time of employment as a school principal.

Section 2. (1) An applicant who has successfully completed all prerequisites to certification specified by KRS 161.027 and 704 KAR Chapter 20 [administrative regulation] and who has been issued either a statement of eligibility or a temporary certificate by the Kentucky Department of Education shall be eligible to participate in the Principal Intern Program specified by this administrative regulation.

(2) The principal internship specified by KRS 161.027 shall take place when a person holding either a valid statement of eligibility or temporary certificate is employed as a principal or full-time assistant principal in a public school or a nonpublic school that is accredited by a regional or national accrediting agency.

Section 3. (1) The purposes of the Principal Intern Program shall be:

(a) To provide beginning principals with the opportunity for learning under the supervision of experienced educators; and

(b) To provide continuing certification upon the demonstration of the principal intern's ability to meet the administrator standards established in Section 4(1) of this administrative regulation.

(2) These purposes shall be accomplished through the principal intern committee which shall be assigned to supervise, assist, and assess the principal intern.

Section 4. (1) The administrator standards used in the assessment of the principal intern shall be as follows:

(a) A school administrator is an educational leader who promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(b) A school administrator is an educational leader who promotes the success of all students by advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

(c) A school administrator is an educational leader who promotes the success of all students by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(d) A school administrator is an educational leader who promotes the success of all students by collaborating with families and community members, responding to diverse community interests, and needs, and mobilizing community resources;

(e) A school administrator is an educational leader who promotes the success of all students by acting with integrity, fairness, and in an ethical manner; and

(f) A school administrator is an educational leader who promotes the success of all students by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural

~~context. [The administrator is the instructional leader who guides, facilitates, and supports the curriculum, instruction, and assessment;~~

~~(b) The administrator practices positive, promotional, and proactive communication strategies (oral and written) for effective parent, community, and school involvement to improve the learning environment for all students; and~~

~~(c) The administrator is the organizational leader and manager who acts within legal and ethical guidelines to accomplish educational purposes;]~~

(2) The intern shall demonstrate to the intern committee the ability to meet the administrator standards through observations of performance and the preparation of a portfolio.

(3) The required entries in the portfolio shall be documentation which illustrates each of the administrator standards and the Principal Intern Program professional growth targets.

Section 5. (1) Members of the principal intern committee shall include a principal mentor, employing school district superintendent or designee, and an administrator educator.

(2) The principal mentor shall be selected by the superintendent of the school district employing the principal intern. Preference in selection shall be given to the following criteria in the order stated:

(a) A currently-employed principal ~~[of a similar school level]~~ within the employing district but outside the intern's school;

(b) A currently-employed principal within the employing [of a similar school level in a nearby] school district;

(c) A currently-employed principal in a nearby school district [of a different school level within the employing school district]; or

(d) ~~A currently-employed principal of a different school level in a nearby school district;~~

~~(e) A recently-retired successful principal [of a similar school level]; and~~

~~(f) A recently-retired successful principal of a different school level].~~

(3) Selection of a principal mentor from another school district shall be subject to the approval of the superintendent of the proposed principal mentor. An assistant principal shall not serve in this capacity. If a principal mentor is not available through these options, a qualified person shall be identified by the Kentucky Department of Education.

(4) The superintendent of the employing local school district shall serve on the committee or shall appoint a designee who has had experience as a principal or assistant principal.

(5) An administrator educator, who is a faculty member in a state-approved administrator training program at an institution of higher education, shall be appointed by the Kentucky Department of Education in consultation with the employing institution of higher education. Preference in selection shall be given to an administrator educator who has had experience as a principal or an assistant principal. [The administrator educator shall have had experience as a principal or assistant principal:] If an administrator educator is not available, the Kentucky Department of Education shall identify a [qualified] person who has had principal experience. Preference in selection shall be given in the following order:

(a) A district level administrator with previous principal experience in the employing district;

(b) A district level administrator with previous principal experience in a nearby school district; or

(c) A recently retired successful principal.

Section 6. (1) Each member of the principal intern committee shall successfully complete a training program approved by the Kentucky Education Professional Standards Board in the supervision, assistance, and assessment of principal interns.

(2) Updated training shall be required for an intern committee member if:

(a) The member has not assessed an intern within the previous two (2) years; or

(b) The Principal Intern Program is revised.

(3) The training shall provide for a high degree of consistency of implementation throughout the state.

(4) The cost of travel expenses incurred during the training shall be reimbursed by the Kentucky Department of Education in accordance with 200 KAR 2:006.

(5) Training sessions shall be scheduled during the summer months if possible.

(6) Training for an administrator educator [educators] shall be scheduled through an institution [the institutions] of higher education.

Section 7. (1) The period of internship shall include the term of employment covered by the contract with the school district.

(2) If a principal intern is employed after the school year has commenced, the period of internship shall not be less than 140 contract days. If less than 140 contract days remain in the school year when the principal intern is hired, the period of internship shall continue into the following school year until a minimum of 140 contract days has been completed. ~~[In some instances, the period of internship may span two (2) school years.]~~

Section 8. (1) The school district employing a principal intern shall submit a confirmation of employment to the Kentucky Department of Education, Office of Teacher Education and Certification. Except in unforeseen circumstances, this confirmation shall be received by the Kentucky Department of Education not later than July 15 [4] of the employment year.

(2) If a principal intern is employed after July 15 [4], the confirmation of employment shall be submitted not later than twenty (20) calendar days following employment.

(3) Upon receipt of the confirmation of employment, the Kentucky Department of Education shall appoint the administrator educator member to the principal intern committee.

Section 9. The superintendent of the employing school district shall provide an orientation meeting for each principal intern to clearly inform the intern of the requirements of the program. At that time, or as soon as possible thereafter, the principal intern shall be provided the names of members of the principal intern committee.

Section 10. (1) The employing school district shall provide to the Kentucky Department of Education information related to the principal mentor and superintendent or designee who will serve as members of each principal intern committee as soon as these members are identified. The information shall include name, Social Security number, address, and telephone number.

(2) If a principal mentor is not available through the options specified in Section 5 of this administrative regulation, the employing school district shall request that the Kentucky Department of Education, Office of Teacher Education and Certification, assist in the identification of a principal mentor.

Section 11. (1) The superintendent of the local school district employing the principal intern shall schedule a meeting of the members of the principal intern committee to be held not later than fifteen (15) days following appointment of all committee members. At that time, the committee shall meet with the principal intern to clarify roles, procedures and expectations. The committee shall also select a chairperson who shall be responsible for scheduling all future visits and conferences and for the completion of required reports.

(2) The principal mentor shall spend a minimum of fifty (50) hours outside of scheduled school hours with the principal intern. The number of hours spent with the intern and the administrator standards and performance indicators addressed shall be reported to the principal intern committee at each committee meeting, and a final report of the total number of hours shall be made in writing by the committee to the superintendent of the local school district employing the principal intern. A copy of the committee's report confirming the number of hours spent by the principal mentor shall be submitted to the Kentucky Department of Education by the local school district in applying for reimbursement of funds as specified in Section 13(1) of this administrative regulation.

(3) Each committee member shall make a minimum of three (3) performance observations of the principal intern and conduct a review as described in subsection (4) of this section of the principal intern portfolio. Following each sequence of performance observations and portfolio review, all committee members shall meet to discuss observed performance and the portfolio. A conference shall then be held with the principal intern by committee members to provide information

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on the skill level on each administrator standard demonstrated and suggestions for professional growth.

(4) The committee shall follow these guidelines for scheduling a sequence of observations, portfolio review, meetings, and conferences:

(a) The sequence shall be conducted on days that are included in the intern's term of employment [school calendar];

(b) There shall be a minimum of thirty (30) work days between each formal sequence; and

(c) Except for an internship [internships] provided pursuant to [in] Section 7(2) of this administrative regulation, the three (3) sequences shall be completed by May 15.

(5) The final meeting of the principal intern committee shall include a decision reached by a majority vote regarding completion of the internship.

Section 12. (1) In arriving at a professional judgment of the completion of internship, the committee shall consider the progress of the principal intern throughout the entire school year, with particular emphasis on the progress demonstrated during the final months of the internship.

(2) At the completion of the internship experience, the chairperson shall report to the Kentucky Department of Education and to the superintendent of the employing local school district, if the superintendent is not a member of the committee, the committee's decision regarding the principal intern's completion of the intern program.

(3) If a principal intern's performance is judged by the intern committee to be unsatisfactory, the principal intern shall have the opportunity to repeat the internship during one (1) additional year contingent upon employment within the period of validity of the statement of eligibility for internship. If the principal intern does not successfully complete the internship during the period of validity of the statement of eligibility, the principal intern shall requalify for admission to the remaining one (1) year of internship by meeting the requirements in effect at the time of reapplication for certification.

Section 13. (1) The Kentucky Department of Education shall reimburse the school district employing the principal intern for the payment to each principal mentor of mileage expenses in accordance with 200 KAR 2:006 and for an amount not to exceed \$1,000 to each principal mentor as compensation for out-of-school time spent with the principal intern.

(2) The Kentucky Department of Education shall contract with institutions of higher education to pay an amount of \$300 [200] for each administrator educator and for mileage expenses in accordance with 200 KAR 2:006. Each institution shall make its own determination as to the allocation of funds received from this program.

(3) If the administrator educator member of the committee does not represent an institution of higher education, the Kentucky Department of Education shall reimburse the appropriate agency or individual for mileage expenses in accordance with 200 KAR 2:006 and for an amount not to exceed \$300 [200].

(4) All costs for the superintendent or designee, except travel reimbursement to attend required training, shall be the responsibility of the local school district.

(5) A payment to a member of a principal intern committee for a secondary vocational principal intern [~~Payments to members of principal intern committees for secondary vocational principal interns~~] shall be administered by the Kentucky Department of Education with reimbursement through the Cabinet for Workforce Development, Department for Technical Education.

Section 14. A complaint relative to the failure of the principal intern committee to comply with statutory and regulatory provisions of the Principal Intern Program shall be reviewed by a committee of four (4) persons appointed by the Kentucky Education Professional Standards Board. The review committee shall include one (1) principal, one (1) superintendent or designee, one (1) administrator educator, and one (1) employee of the Office of Teacher Education and Certification. If practical, a decision on the complaint shall be made within sixty (60) days following receipt of the complaint.

Section 15. The Kentucky Education Professional Standards Board shall collect and analyze data, on an annual or biennial basis, which permit evaluation of the Principal Intern Program covered by this administrative regulation.

ROSA WEAVER, Chair

MARCIA SEILER, Office of Legal Services

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

PUBLIC PROTECTION AND REGULATION CABINET Public Service Commission (As Amended at ARRS, July 13, 1999)

807 KAR 5:007. Filing and notice requirements for a generation and transmission cooperative or a distribution cooperative to decrease rates or for a distribution cooperative to change rates to reflect a change in the rates of its wholesale supplier.

RELATES TO: KRS 278.180, 278.455

STATUTORY AUTHORITY: KRS 278.040(3), 278.180(1), 278.455(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) provides that the commission may promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.180(1) provides that, except upon application of a utility for a lesser time, a [no] change shall **not** be made in a [any] rate except upon thirty (30) days' notice to the commission, stating plainly the changes proposed to be made and the time when the changed rates shall go into effect. KRS 278.455(1) provides that a generation and transmission cooperative or a distribution cooperative may decrease regulated operating revenues if the decrease is allocated proportionately among customer classes so that a [no] change will **not** result to the rate design currently in effect. KRS 278.455(2) provides that a distribution cooperative may change its rates to reflect a change in the rate of its wholesale supplier if the effects of an increase or decrease are allocated to each class and within each tariff on a proportional basis that will result in no change in the rate design currently in effect. KRS 278.455(4) requires the commission to promulgate administrative regulations establishing filing requirements and notice requirements to the commission, the Attorney General, and the public for rate changes made pursuant to KRS 278.455. This administrative regulation prescribes filing and notice requirements for a generation and transmission cooperative or a distribution cooperative to decrease rates and for a distribution cooperative to change rates to reflect a change in the rates of its wholesale supplier.

Section 1. Filing Requirements. To decrease rates, a generation and transmission cooperative or a distribution cooperative shall file with the commission an original and five (5) copies, and with the Attorney General's Office of Rate Intervention one (1) copy, of the following information:

(1) The tariff incorporating the reduced rates, specifying an effective date no sooner than thirty (30) days from the date filed;

(2) The name and address of the filing cooperative;

(3) A brief statement of the facts demonstrating that the filing is made pursuant to the authority of KRS 278.455;

(4) A comparison of the current and proposed rates;

(5) An analysis demonstrating that:

(a) The rate change does not change the rate design currently in effect; and

(b) [That] The revenue change has been allocated to each class and within each tariff on a proportional basis;

(6) A certification that a complete copy of the materials filed with the commission has been sent to the Attorney General's Office of Rate Intervention;

(7) A statement that notice of the rate change pursuant to Section 3 of this administrative regulation has been given, not more than thirty (30) days prior to the date the application is filed, by one (1) of the following methods:

(a) By typewritten notice mailed to all customers;

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- (b) By publication in a newspaper of general circulation in the affected area; or
- (c) By publication in a periodical distributed to all members of the cooperative; **and**
- (8) A copy of the notice given pursuant to subsection (7) [(6)] of this section.

Section 2. To change rates to reflect an increase or decrease in its wholesale supplier's rates, a distribution cooperative shall file with the commission an original and five (5) copies, and with the Attorney General's Office of Rate Intervention one (1) copy, of the following information:

- (1) The tariff incorporating the new rates and specifying an effective date no sooner than the effective date of the wholesale supplier's rate change; **and**
- (2) The information required by Section 1(2) through (8) of this administrative regulation.

Section 3. Contents of Notice. Notice given pursuant to Section 1(7) of this administrative regulation shall include the following information:

- (1) The name, address, and phone number of the cooperative;
- (2) The existing rates and the revised rates for each customer class;
- (3) The effect of the rate change, stated both in dollars and as a percentage, upon the average bill for each customer class;
- (4) A statement, as appropriate, that:
 - (a) The rate reduction is being made at the sole discretion of the utility, pursuant to KRS 278.455(1); or
 - (b) The rates are being revised to reflect a change in wholesale rates pursuant to KRS 278.455(2); **and**
- (5) A statement that a [any] person may examine the rate application at the main office of the utility or at the office of the Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky.

B. J. HELTON, Chairman
RONALD B. MCCLOUD, Secretary
DEBORAH T. EVERSOLE, Assistant General Counsel
APPROVED BY AGENCY: April 29, 1999
FILED WITH LRC: May 12, 1999 at 2 p.m.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction Division of Plumbing (As Amended at ARRS, July 13, 1999)

815 KAR 20:020. Parts or materials list.

RELATES TO: KRS 318.010, 318.015, 318.130, 318.150, 318.200

STATUTORY AUTHORITY: KRS 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after review by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation established an "approved parts or materials list" containing the parts and materials that have been approved for use in Kentucky.

Section 1. Definitions. (1) **"ABS" means acrylonitrile-butadiene-styrene pipe.**

(2) **"APML" means the "Approved Parts or Materials List."**

[(2) **"ABS" means acrylonitrile-butadiene-styrene pipe.**]

(3) **"ASTM" means American Society for Testing Materials.**

(4) **"Code" is defined by KRS 318.010(11).**

(5) **"Committee" means the State Plumbing Code Committee.**

(6) **"Department" is defined by KRS 318.010(1).**

(7) **"Parts or materials" means all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems.**

[(5) **"Committee" means the State Plumbing Code Committee.**

(6) **"Code" is defined by KRS 318.010(11).**

(7) **"Department" is defined by KRS 318.010(1).**]

(8) **"Person" is defined by KRS 318.010(9).**

(9) **"PVC" means polyvinyl chloride pipe.**

Section 2. Approved Parts or Materials List (APML). (1) A part or material manufactured or produced according to a specification listed in the code shall be considered approved if it meets the latest edition of the specification.

(2) A part or material shall not be used in a drainage or plumbing system, other than those currently authorized by the code, unless the use of the part or material has been considered by the committee and approved by the department as being equal to or better than other similarly approved items for inclusion in the APML. The APML may [also] specify methods of installation or restrictions applicable to a particular part or material.

Section 3. Amending the APML. (1) A person may petition the committee, in writing, no later than fourteen (14) days prior to the committee's next scheduled meeting for the purpose of amending the APML. The request shall include:

- (a) A description of the part or material for which approval is sought;
 - (b) Available technical data;
 - (c) A listing of other authorities which have approved the use of the part or material; and
 - (d) Any other pertinent information requested by the committee.
- (2)(a) The committee shall consider all parts or materials for which approval is sought and shall forward its recommendations within thirty (30) days to the department.

(b) A hearing shall be held before the committee if requested, by a person having an interest in the subject matter within thirty (30) days following the determination of the committee.

(c) Upon approval of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 5 of this administrative regulation.

Section 4. Custody of the APML. The Director, Division of Plumbing, shall maintain an up-to-date APML and make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings and Construction, Frankfort, Kentucky 40601.

Section 5. Content of Approved Parts or Materials List. The following list of parts or materials have been approved by the Kentucky Plumbing Code Committee and the Division of Plumbing and shall be allowed for installation in Kentucky.

(1) Flexible three-fourths (3/4) inch hot and cold water connectors for hot water heaters, minimum wall thickness, .032.

(2)(a) Flushmate water closet tank.

(b) Microphor company. Two (2) quart flush toilets.

(c) Jomar 3 and 4 water conserver water closets to operate efficiently on three and one-half (3 1/2) gallons of water per flush.

(d) Superinse toilet that operates on one (1) gallon of water per flush as manufactured by Universal Rundle for the Thetford Wastewater Treatment Systems.

(e) IFO Sanitar AB Model-3160 and 3180 China Water Closet equipped with a Fluidmaster 4003A-F77 Ballcock.

(f) Cashsaver MX (quantum 150-1) Water Closet Combination and Flushmate II Flushometer/Tank as manufactured by Mansfield Plumbing Products.

(3) Tubular traps with gasket in trap seal.

(4)(a) Polyethylene sump pump basin. Polyethylene sump pump basin shall be constructed of polyethylene material and shall be provided with a sump cover.

(b) Liberty Pump Model 402, Laundry Tray Pump for pipe size one and one-half (1 1/2) inch for light commercial and household usage.

(c) Zoeller Drain pump and HiLo Industries Power Drain for pipe sizes one and one-half (1 1/2) inch and two (2) inch for light commercial and household usage.

(d) Sewage ejector pit - eighteen (18) inch by twenty-two (22) inch

with steel cover pit and eighteen (18) inch by thirty (30) inch with steel cover sump pit as manufactured by A. K. Industries [Lunsford and Associates, Inc.].

(e) Little Giant Pump Company, Drainsaur Water Removal System, Model #WRS-6. This approval shall be limited to two (2) drainage fixture units since it has a one and one-half (1 1/2) inch drain.

(f) Add A Drain (Waste Discharge System) as manufactured by Lunsford and Associates.

(g) Sta-Rite Pump Corporation, laundry tray system approved for residential and light commercial use.

(h) Electric Drain System as manufactured by Myers for light commercial and household usage.

(5)(a) No-caulk roof flashing. No-caulk roof flashing shall be eighteen (18) inch by eighteen (18) inch galvanized iron base with a neoprene boot forming a water tight seal with the stack that it serves.

(b) Polyethylene roof flashing. Polyethylene roof flashing shall have a base which shall extend six (6) inches in all directions from the base of a stack and shall have a boot with a preformed thermoplastic rubber gasket.

(c) Dektite pipe flashing system to be used on metal building decks for plumbing vent stacks as manufactured by Buildex Corporation.

(d) Oatey eighteen (18) inch by eighteen (18) inch no caulk thermoplastic flashing, one (1) piece construction, positive double seal in three (3) inch only.

(e) Carlisle syntec systems. Vent flashings for sureseal and Brite-Ply roofing systems as required by Carlisle Corporation.

(f) Trocal roofing systems. Vent flashings for Trocal roofing systems as required by Dynamit Nobel of American, Inc.

(g) Masterflash Pipe Flashing system for plumbing vent stacks as manufactured by Aztec Washer Company.

(h) Hi-Tuff Roofing Systems pipe flashing system for plumbing vent stacks as required by J.P. Stevens and Company, Inc.

(6)(a) Kitchen sink faucet. Kitchen sink faucets may have corrugated supply piping if the piping has a wall thickness equal to Type M copper pipe.

(b) Sink and lavatory faucets and pop-up lavatory assembly parts manufactured by CPVC plastic as manufactured by Nibco Co.

(c) Series 1000 Automatic Faucets as Manufactured by Hydrotek USA, Inc.

(7) Lab-Line Enfield L-E acid waste systems, one and one-half (1 1/2) through four (4) inch inside measurement for above and below ground installation on acid waste. Underground shall be laid on six (6) inches of sand grillage and shall be backfilled by hand and tamped six (6) inches around piping or be surrounded by six (6) inches of sand grillage.

(8) Floor drains, shower drains, urinal drains and clean-outs manufactured by Plastic Oddities, Inc.

(9) Tubular plastic components conforming to ASTM F409-75, bathtub waste and overflow, traps, continuous sink wastes and extension tubes as manufactured by J & B Products Corporation.

(10)(a) Water heaters. Heat pump water heaters as manufactured by Dec International, Inc., Therma-Stor Products Group.

(b) Water heaters, point of use or instantaneous.

1. In-Sink-Erator's Ultra System. For instant hot water to serve individual fixtures, Model #777W, W, WH, WA and WHA, W-152 and W-154.

2. Eemax Electric Tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve; the pressure type with the requirement that the temperature and pressure relief valve be of a one-half (1/2) inch short shank valve and shall be installed with the product.

3. Vitacimate Control Systems, Inc. - Heatrae Instantaneous Water Heaters Models 7000 and 9000, pressure type, point of use water heater and shall be equipped with an approved temperature and pressure relief valve installed so that the thermo couple of the relief valve extends into the heat chamber discharge.

4. Paloma Automatic Instantaneous Gas Water Heaters Numbers PH-6DN, PH-6DP, PH-12A-DN, PH-12A-DP, PH-12M-DN, PH-12M-DP, PH-16A-DN, PH-16A-DP, PH-16M-DN, PH-16M-DP, PH-24A-DN, PH-24A-DP, PH-24M-DN and PH-24M-DP.

5. Rinnai Gas Fired Instantaneous Water Heaters Model Numbers REU-95GS-2R, REU-95GS-3R, REU-90, REU-130 pressure type and

shall be equipped with an approved temperature and pressure relief valve.

6. Elkay Aqua-Temp tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve.

7. International Technology Sales Corporation AEG Telefunken MDT instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

8. International Technology Sales Corporation Zanker Faucet Model W05U without a temperature and pressure relief valve.

9. Amtrol hot water maker model numbers WH7P, WH7 and WH7C with a minimum three-fourths (3/4) inch inlet and outlet.

10. Chronomite Laboratories, Inc. - instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

11. Chronomite Instant-Flow Tankless Water Heater without a temperature and pressure relief valve.

12. Nova Hot Water Generator Models: VES5/10, VES6/12, VES7/14, VES8/16, VES9/18 and VES11/22 as manufactured by Hot Water Generators, Inc.

13. Aqua Star tankless gas water heaters, model numbers 125 VP and 80 VP and shall be equipped with an approved temperature and pressure relief valve.

14. Ariston electric water heaters, model numbers P-15S and P-10S and shall be equipped with an approved temperature and pressure relief valve.

15. Vaillant Corporation gas fired point of use water heater.

16. Trinom Hot Man Tankless Water Heater as manufactured by Siemens.

17. Field Controls Company Power Venter - Models PVAE and SWG for use in conjunction with gas and oil fired water heaters.

18. Acutemp Instantaneous Water Heater as manufactured by Keltech, Inc., Model #100/208; #100/240; #150/208; #150/240; #180/208; #180/240; #153/208; #153/240; #183/208; #183/240; #183/480 and #C183/480[~~-all requiring an approved pressure and temperature relief valve~~].

19. Hot Aqua Instantaneous Tankless Electric Water Heaters, Model Numbers, 18/125PC, 24/125PC, 24/120, 32/120, 24/240, 36/240, 48/240, 59/240, 70/240, 24/208, 35/208, 46/208, 60/208, 28/277, 42/277, 55/277, 69/277, 24/120-P, 59/240-P, 46/208-P, 55/277-P, 18/125PC and 24/125PC. This product is not approved for supplying hot water for showers.

20. Stiebel Eltron Tankless Water Heater: Models DHC 3, DHC 6 and DHC 8 approved for use with lavatories and sinks.

(11) Compression joints. Fail-safe hot and cold water systems.

(12) Orion fittings for acid waste piping systems for above and below ground.

(13) R & G Slone Manufacturing Company. Fuseal mechanical joint for the connection of polypropylene and waste piping.

(14) Johns Manville Flex I drain roof drain system.

(15) Hydrocide liquid membrane (HLM) to be used as a shower pan material conforming to ASTM C836-76. The density of the material shall be at least one-sixteenth (1/16) inch thick.

(16) Scotch-Clad brand waterproofing system as manufactured by the 3M Company for thin-set installation of ceramic and quarry tile in shower stalls, bathrooms, janitorial closets limited to those applications on concrete floors and using metallic soil and waste piping.

(17) Elkay Aqua-chill water dispensers.

(18) Flexible connectors for hot and cold potable water supply in plumbing fixture connections as manufactured by Aqua-Flo Corporation limited to thirty (30) inch length except dishwashers which shall be forty-eight (48) inches maximum.

(19)(a) Delta Faucet Company's quick-connect fitting known as "grabber" to be used with hot and cold potable water installations above ground only.

(b) REMCO Angle Stop Quick connect valve for use with hot and cold potable water installations above ground only.

(20) Interceptors.

(a) Town and Country plastic interceptors to be used as a grease trap.

(b) Grease recovery unit (GRU) as manufactured by Lowe Engineering, Lincoln Park, NJ.

(c) Scienco, Inc., models SI-101-20G, SI-104-35G, SI-102-50G and SI-103-100G with PVC solvent connections.

(d) Rockford separators for grease, oil, hair and solids in various styles and sizes and being more specifically model series G, G LO, G M, G LOM, GF, GFE, GAS, GPS, GSS, OS, RHS, GSC, RMS, RSD, SD, SDE, GTD, and RTD that are used for their intended purpose and installed in accordance to the manufacturer's specification and the plumbing code.

(e) Grease interceptors as manufactured by Enpoco, Inc. of St. Charles, IL.

(f) Grease Traps U.S.A.: Polypropylene grease trap, model number GT-25, as certified by the Plumbing and Drain Institute.

(21) Plastic Oddities Srv (sewer relief vent) clean-out.

(22) Contech A-2000 - a PVC corrugated pipe with smooth interior meeting or exceeding all the material and service test requirements of ASTM D-3034-74 except dimensions at the time of manufacture.

(23) Nonchemical water treatment to control lime scale and corrosion buildup superior water conditioners as manufactured by Kemtune, Inc.

(24) Eljer plumbing ware - Elgers ultra one/G water closet.

(25)(a) "Power Flush" and "Quik Jon" as manufactured by Zoeller Company; shall have a three (3) inch vent; alternate additional waste openings to be located in pump chamber above top of base chamber.

(b) Hydromatic JB-1 System as manufactured by Hydromatic Pumps, Inc.

(26) Exemplar Energy garden solar water heater.

(27) ProSet systems for pipe penetrations in fire rated structures. System A for copper and steel pipe. System C using solvent weld joints only. ProSet E-Z flex coupling is approved for similar or dissimilar materials.

(28)(a) ABS and PVC backwater valves, Models 3281, 3282, 3283 and 3284 for solvent cement joints only as manufactured by Canplas Industries.

(b) Flood-Gate Automatic Backwater Valve as manufactured by Bibby-Ste-Croix.

(29) Clamp-All Corporation Pipe Coupling Systems is approved size for size on dissimilar materials on new or existing installations. Snap-All Increaser/Reducer transition bushings are approved for repairs using dissimilar materials or sizes.

(30) Mission Rubber Company "Band-Seal Specialty Coupling" is approved as a transition between any combination of the following materials: cast iron, copper, galvanized steel, schedule 40 PVC and ABS and SDR 35.

(31)(a) Laticrete 9235 Waterproof Membrane to be used as a saffing material for floors and walls in showers, bathtubs and floor drain pans.

(b) Ultra-Set as manufactured by Bostik Construction Products to be used as a water proofing material.

(32) DFW Elastomeric PVC coupling manufactured by DFW Plastics, Inc. for use on building sewers.

(33)(a) Fernco Lowflex Shielded Couplings, approved for connecting extra heavy, no-hub and service weight cast iron pipe, DWV PVC and ABS pipe, SDR 35 sewer pipe, galvanized steel pipe and copper pipe or as a transition between any of these materials in soil waste and vent systems above or below grade.

(b) Fernco Proflex Shielded Couplings: Series 3000 for service weight cast iron to plastic, steel or extra cast iron in sizes one and one-half (1 1/2) inch to four (4) inch, Series 3001 for cast iron, plastic or steel to copper in sizes one and one-half (1 1/2) inch to two (2) inch, Series 3003 for copper to copper in one and one-half (1 1/2) inch.

(34) TBA drain, waste and vent pipe, schedule 40 PVC piping marked "meets dimensional specifications of ASTM D-2665". This pipe has been tested for the tensile strength, durability, etc., of ASTM D-2665 except that it is made from recycled, unused plastics rather than virgin materials.

(35) Blucher-Josam stainless steel pipe, fittings and drains for disposal of corrosive wastes.

(36) Paul Panella Industries Hostalen GUR UHMW Polymer Cleanout approved for use on sewers of Schedule 40 PVC, ABS and SDR in four (4) inch and six (6) inch sizes.

(37) Advanced Drainage Systems, Inc., Series 35 polyethylene corrugated sewer pipe with a smooth interior in sizes four (4) inch through twenty-four (24) inches for underground storm water drainage within a building.

(38) "Flowguard Gold" one (1) step CPVC cement for joining cop-

per tube size CPVC piping systems through two (2) inches without the requirement of a cleaner or primer.

(39) E-Z Trap Adapter as manufactured by S & S Enterprises to be used as connection between chrome plated P trap and PVC waste line.

(40) Canplas Industries LTD Specialty DWV Fittings: Part #3628 ABS or PVC forty-five (45) degree Discharge Closet Flange, Part #2321 Appliance (dishwasher) Wye, Part #3650A Closet Flange Kit for Concrete Installations.

(41) Conbraco 78-RV Series In-Line Water Heater Shut-Off Thermal Expansion Control Valve preset at 125 psi to relieve thermal expansion.

FRANK PHIEFFER, Chairman, Plumbing Code Committee

CHARLES A. COTTON, Commissioner

RONALD MCCLOUD, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: May 5, 1999

FILED WITH LRC: May 13, 1999 at 2 p.m.

**PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, July 13, 1999)**

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS 318.010, 318.130, 318.150, 318.165, 318.200

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This administrative regulation establishes the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control the water supply system and requires the manufacturer's specification number of the material accepted in those installations to be identified and published.

Section 1. Definitions. [Definition of Terms:] (1) "ASSE" means American Society of Sanitary Engineers and a copy of a specification [copies of specifications] identified in this administrative regulation may be obtained by writing the American Society of Sanitary Engineers, P.O. Box 40362, Bay Village, Ohio 44140.

(2) "ASTM" means American Society for Testing Materials and a copy of a specification [copies of specifications] identified in this administrative regulation may be obtained by writing the American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(3) "Critical level" or "CL" means the level to which the vacuum breaker may be submerged before backflow will occur; and [-] if the CL marking is not shown on the vacuum breaker, the bottom of the device shall be taken as the CL.

(4) "DWV" means drain, waste and vent piping.

(5) "SDR" means standard dimensional ratio.

Section 2. Quality. (1) The bacteriological and chemical quality of the water supply shall comply with the administrative regulations of the department and other governing authorities. Toxic material [materials] shall be kept out of a [the] potable water system.

(a) The pipe conveying and each surface [the surfaces] in contact with potable water shall be constructed of nontoxic material [materials].

(b) A chemical [chemicals] or other substance [substances] that could produce either a toxic condition [conditions], taste, odor, or discoloration in a potable water system shall not be introduced into, or used in, the system [systems].

(c) The interior surface of a potable water tank shall not be lined, painted, or repaired with a material which will affect either the taste, odor, color, or potability of the water supply if the tank is placed in, or returned to, service. An [All] interior tank coating [coatings] shall be from the list approved by the authority having jurisdiction.

(2) Potable water shall be accessible to a plumbing fixture [fixtures] that supplies [supply] water for drinking, bathing, culinary use or the processing of a medicinal, pharmaceutical or food product [products].

(3) The potable water supply system shall be designed, installed, and maintained to prevent contamination from a nonpotable liquid, solid, or gas [liquids, solids, or gases] being introduced into the potable water supply through a cross connection [connections] or other piping connection [connections] to the system.

(4) A cross connection [connections] shall be prohibited except as approved by the authority having jurisdiction, and a suitable protective device [devices] shall be installed.

(5) A cross connection [connections] between a private water supply and a public water supply shall not be made.

(6) Closed water systems, protection from excess pressure:

(a) If a single check valve is installed in a water system, a thermal expansion tank sized in accordance with manufacturer's instructions shall be installed in the cold water supply located near the water heater.

(b) If a backflow preventer is installed in a water system, a properly sized thermal expansion tank or other pressure relief device listed in 815 KAR 20:020 shall [must] be installed in the water distribution system.

(c) If a pressure reducing valve not equipped with a bypass is installed in the cold water supply line to a water heater, a thermal expansion tank shall [must] be installed in the cold water line near the water heater. [If cross connection control devices are properly installed, they shall create a closed water system. A properly sized thermal expansion tank shall be installed in the cold water supply located near the water heater.]

(7) Backflow and back siphonage protection. Means of protection against backflow shall be as required in paragraphs (a) through (l) of this subsection in order of degree of protection provided. Backflow shall include both back pressure and back siphonage.

(a) An air gap shall provide the best level of protection in all backflow situations. The minimum required air gap shall be determined as follows:

1. How measured. The minimum required air gap shall be measured vertically from the lowest end of a potable water outlet to the flood rim or line of the fixture or receptacle into which it discharges.

2. Size. The minimum required air gap shall be twice the effective opening of a potable water outlet, unless the outlet is a distance less than three (3) times the effective opening away from a wall or similar vertical surface, in which case the minimum required air gap shall be three (3) times the effective opening of the outlet. The minimum required air gap shall not be less than shown in the following table - Minimum Air Gaps for Plumbing Fixtures.

MINIMUM AIR GAPS FOR PLUMBING FIXTURES		
Fixture	Minimum Air Gap	
	When not affected by near wall (inches)	When affected by near wall (inches)
Lavatories and other fixtures with effective opening not greater than 1/2 inch diameter	1	1 1/2
Sink, laundry trays, gooseneck bath faucets and other fixtures with effective openings not greater than 3/4 inch diameter	1 1/2	2 1/4
Over rim bath fillers and other fixtures with effective openings not greater than 1 inch diameter	2	3
Drinking water fountains - single orifice not greater than 7/16 (0.437) inch diameter or multiple orifices having total area of 0.150 square inches (area of circle 7/16 inch diameter)	1	1 1/2
Effective openings greater than 1 inch	2 x diameter of effective opening	3 x diameter of effective opening

NOTE 1. Side walls, ribs, or similar obstructions do not affect air gaps if spaced from inside edge of spout opening a distance greater than three (3) times the diameter of the effective opening for a single wall, or a distance greater than four (4) times the diameter of the effective opening for two (2) intersecting walls.

NOTE 2. Vertical walls, ribs, or similar obstructions extending from the water surface to or above the horizontal plane of the spout opening require a greater air gap if spaced closer to the nearest inside edge of spout opening than specified in NOTE 1 above. The effect of three (3) or more vertical walls or ribs has not been determined. In this case, the air gap shall be measured from the top of the wall.

(b) A reduced pressure principle back pressure backflow preventer. A reduced pressure principle back pressure backflow preventer [preventers] shall provide the best mechanical protection against backflow available, and [may] be considered equivalent to an air gap.

(c) Double check valve assembly: applicable to low level of hazard back pressure backflow conditions. This device [These devices] shall be a manufactured assembly [assemblies] consisting of two (2) independently acting check valves and including a shutoff valve [valves] at each end, and petcock [petcocks] and test gauge [gauges] for testing the watertightness of each check valve.

(d) Pressure type vacuum breaker: applicable to back siphonage conditions.

(e) Atmospheric type vacuum breaker: applicable to back siphonage conditions. If applicable, an [all] atmospheric type vacuum breaker [breakers] shall be installed after the last cutoff valve on the water line. This device [These devices] may operate under normal atmospheric pressure if the critical level (CL) is installed at the required height in accordance with the following table:

CRITICAL LEVEL (CL) SETTINGS FOR ATMOSPHERIC TYPE VACUUM BREAKERS	
Fixture or Equipment	Method of Installation
Aspirators, ejectors, and showers	CL at least 6 in. above flood level of receptacle
Bidets	CL at least 6 in. above flood level of receptacle
Cup beverage vending machines	CL at least 12 in. above flood level of machine
On models without built-in vacuum breakers:	
Dental units	CL at least 6 in. above flood level rim of bowl.
Dishwashing machines	CL at least 6 in. above flood level of machine
Flushometers (closet & urinal)	CL at least 6 in. above top of fixture supplied
Garbage can cleaning machines	CL at least 6 in. above flood level of machine
Hose bibs (sinks or receptacles)	CL at least 6 in. above flood level of receptacle served
Hose outlets	CL at least 6 in. above highest point on hose line
Laundry machines	CL at least 6 in. above flood level of machine
Lawn sprinklers	CL at least 12 in. above highest sprinkler or discharge outlet
Steam tables	CL at least 12 in. above flood level
Tanks & vats	CL at least 6 in. above flood level rim or line

NOTE 1. Critical level (CL) is defined as the level to which the vacuum breaker may be submerged before backflow will occur. If the CL marking is not shown on the vacuum breaker, the bottom of the device shall be taken as the CL.

(f) Barometric loop: applicable to back siphonage conditions. The use of a barometric loop shall not be acceptable as the primary back siphonage preventer.

(g) Location of backflow and back siphonage preventers. A backflow and back siphonage preventer [preventers] shall be in an accessible location, preferable in the same room as the fixture or connection it protects. A device [they protect. Devices] may be installed in a utility or service space [spaces]. A device or air gap [Devices and air gaps] shall not be subject to flooding or freezing.

(h) Inspection of devices. A periodic inspection [Periodic in-

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spections] shall be made of each [all] backflow and back siphonage preventer [preventers] to determine if it is [they are] in proper working condition. A reduced pressure principle back pressure backflow preventer [preventers] shall be tested on at least an annual basis. Records shall be kept on each inspection [all inspections].

(i) Approval of devices. Before a [any] device for the prevention of backflow or back siphonage is installed, it shall be identified as meeting the applicable specifications as listed in the application chart included in paragraph (i) of this subsection. A device [have first been certified by a recognized testing laboratory acceptable to the plumbing official. Devices] installed in a building potable water supply distribution system for protection against backflow shall be maintained in good working condition by the person [or persons] responsible for the maintenance of the system.

(j) Protection of potable water system. A potable water opening, outlet, or connection except one (1) that serves a residential unit [openings, outlets, and connections, except those serving residential units], shall be protected against backflow in accordance with para-

graphs (a) through (l) of this subsection.

(k) Degree of hazard. The protection required at an [any given] outlet or connection shall be determined based on the degree of hazard posed by that outlet or connection as follows:

1. Severe hazard. Potential for contamination by a toxic substance [substances] or disease-causing organism [organisms].

2. Moderate hazard. Potential for contamination by a nontoxic but objectionable substance [substances].

3. Minor hazard. Potential for contamination by a generally nontoxic, nonobjectionable substance [substances], but which may cause the consumer to question the quality of water.

(l) Minimum acceptable protection. An opening or outlet shall be protected by an air gap between the opening and flood level rim if possible. The acceptable protection for various types of outlets or connections shall be as shown in the following table:

APPLICATION CHART				
TYPE AND PRES-SURE	DESCRIPTION	INSTALLED AT	EXAMPLES OF INSTALLATIONS	APPLICABLE SPECIFICATIONS
Reduced Pressure Principle Backflow Preventer For high hazard cross connections.	Two independent check valves with intermediate relief valve. Supplied with shut-off valves and ball-type test cocks.	All cross connections subject to backpressure or back siphonage <u>if</u> [where] there is a high potential health hazard from contamination. Continuous pressure.	Main Supply Lines Commercial Boilers Cooling Towers Hospital Equipment Processing Tanks Laboratory Equipment Waste Digesters Car Wash Sewage Treatment Lawn Sprinklers	ASSE No. 1013 AWWA C506 FCCCHR of USC CSA B.64.4 Sizes 3/4" - 10"
(A) Double Check Valve Assembly For low hazard cross connections.	Two independent check valves. Supplied with shutoff valves and ball type test cocks.	All cross connections subject to back pressure <u>if</u> [where] there is a low potential health hazard or nuisance. Continuous pressure.	Main Supply Lines Food Cookers Tanks and Vats Commercial Pools	N O N T O X I C ASSE No. 1015 AWWA C506 FCCCHR of USC CSA B.64.5 Sizes 3/4" - 10" ASSE No. 1024 Sizes 3/4" & 1"
(B) Dual Check Valve Backflow Preventer For low hazard applications.	Two independent check valves. Checks are removable for testing	Cross connections <u>if</u> [where] there is a low potential health hazard and moderate flow requirements.	Post ground hydrants.	
(A) Backflow Preventer with Intermediate Atmospheric Vent For moderate hazard cross connections in small pipe sizes.	Two independent check valves with intermediate vacuum breaker and relief valve.	Cross connections subject to back pressure or back siphonage <u>if</u> [where] there is a moderate health hazard. Continuous pressure.	Boilers (Small) Cooling Towers (Small) Dairy Equipment Residential	ASSE No. 1012 CSA B.64.3 Sizes 1/2" & 3/4"
		Pump outlet to prevent backflow to carbon dioxide gas and carbonated water into the water supply system to beverage machines.	Postmix Carbonated Beverage Machine	Special Approvals
(B) Laboratory Faucet and Double Check Valve with Intermediate Vacuum Breaker in small pipe sizes for moderate to low hazard.	Two independent check valves with intermediate vacuum breaker and relief vent.	Cross connection subject to back pressure or back siphonage <u>if</u> [where] there is a moderate to low health hazard.	Laboratory Faucets and Pipe Lines Barber Shop and Beauty Parlor Sinks	ASSE No. 1035 (N-LF9)
(A) Atmospheric Vacuum Breakers For moderate to high hazard cross connections.	Single float and disc with large atmospheric port.	Cross connections not subject to backpressure or continuous pressure. Install at least 6" above fixture rim. Protection against back siphonage only.	Process Tanks Dishwashers Soap Dispensers Washing Machines	ASSE No. 1001 ANSI.A112.1.1 CSA B.64.1.1 FCCCHR of USC Sizes 1/4" - 3"
(B) Antisiphon Pressure Breakers For moderate to high hazard cross connections.	Spring loaded single float and disc with independent 1st check. Supplied with shutoff valves and ball type test cocks.	This valve is designed for installation in a continuous pressure potable water supply system 12" above the overflow level of the system being supplied. Protection against back siphonage only.	Laboratory Equipment Cooling Towers Comm. Laundry Machines, Swimming Pools Commercial Plating Tanks Lg. Total & Urinal Facilities Degreasers, Photo Tanks Livestock Water Systems Lawn Sprinklers	ASSE No. 1020 CSA B.64.1.2 FCCCHR of USC Sizes 1/2" - 2"

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(C) Hose Connection Vacuum Breakers For residential and industrial hose supply outlets.	Single check with atmospheric vacuum breaker vent.	Install directly on hose bibs, service sinks and wall hydrants. Not for continuous pressure.	Hose Bibs Service Sinks Hydrants	ASSE No. 1011 CSA B.64.2 Size 3/4" Hose
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CROSS CONNECTIONS, DEGREE OF HAZARD AND ACCEPTABLE PROTECTION FOR VARIOUS PLUMBING OUTLETS AND CONNECTIONS								
Type of Connection	Degree of Hazard				Acceptable Protection			
	Severe	Moderate	Minor	Air Gap	Reduced Pressure Device	Backflow Double Check Valve Assembly	Pressure Type Vacuum Breaker	Backsiphonage Atmospheric Type Vacuum Breaker
I. Connections subject to back pressure from:								
A. Pumps, tanks, and lines handling :								
1. Toxic substance	X			X	X			
2. Nontoxic substance		X		X	X	X		
B. Boilers								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		
C. Gravity due to obvious site conditions subject to:								
1. Contamination by toxic substances	X			X	X			
2. Contamination by nontoxic substances		X		X	X	X		
II. Water outlets and connections not subject to back pressure:								
A. Connection to sewer or sewage pump	X			X				
B. Outlet to receptacles containing toxic substances	X			X	X		X	X
C. Outlet to receptacles containing nontoxic substances		X		X	X	X	X	X
D. Outlet into domestic water tanks			X		EACH CASE TREATED SEPARATELY			
E. Flush valve toilets	X			X	X		X	X
F. Flush valve urinals		X		X	X		X	X
G. Outlets with hose attachments subject to contamination from:								
1. Toxic substance	X			X	X		X	X
2. Nontoxic substance		X		X	X	X	X	
H. Outlets to recirculating cooling tower								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		

Section 3. Water Required. (1) A building equipped with a plumbing fixture [fixtures] and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In a building used as a residence or a building [buildings used as residences or buildings] in which people assemble or are employed, both hot and cold water shall be supplied.

Section 4. Water Service. (1) The water service piping to A building shall not be less than three-fourths (3/4) inch nominal pipe size but shall be of sufficient size to permit a continuous and ample flow of water to each fixture [all fixtures] in the building.

(2) The underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth except they may be placed in the same trench if:

(a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point;

(b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench; and

(c) The number of joints in the water service pipe shall be kept to a minimum.

Section 5. Distribution. (1) The water supply shall be distributed through a piping system entirely independent of another [any other] piping system.

(2) Piping which has been used for a purpose [purposes] other than conveying potable water shall not be used for conveying potable water.

(3) Nonpotable water may be used for flushing a water closet or urinal [water closets and urinals], if the water is piped in an independent system. If a dual water distribution system is used, the nonpotable water supply shall be durably and adequately identified by a color marking, metal tag [color markings and metal tags], or other appropriate method as may be approved by the governing authority. An outlet on the nonpotable water distribution system used for a drinking or domestic purpose [purposes] shall be permanently posted: DANGER - UNSAFE WATER. Each branch, fitting, or valve [The branches, fittings or valves] shall be identified by the word - "NONPOTABLE WATER" either by a sign or brass tag [signs or brass tags] that shall be permanently affixed to the pipe, fitting or valve [fittings, or valves]. The [These] identification marking [markings] shall not be

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concealed **and shall be maintained by** ~~[- Their maintenance shall be the responsibility of]~~ the owner.

(4) **A** ~~[Any]~~ backflow device or cross-connection control device shall be approved by the department.

(5) **A** combination stop and waste **valve, cock, or hydrant** ~~[valves, cocks, or hydrants]~~ shall not be installed in the underground water distribution system without the installation of an approved backflow preventer.

(6) A private water supply shall not be interconnected with **a** ~~[any]~~ public water supply.

(7) Water used for cooling of equipment or in **another process** ~~[other processes]~~ shall not be returned to the potable water system. The water shall be discharged into a drainage system through an air gap, or ~~[may be]~~ used for **a nonpotable purpose** ~~[purposes]~~ on written approval of the plumbing official.

Section 6. Water Supply to Fixtures. **A** plumbing **fixture** ~~[fixtures]~~ shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. A water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of **a water closet, urinal or similar fixture** ~~[water closets, urinals or similar fixtures]~~. If a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, the **valve** ~~[valves]~~ shall be set above the fixture to prevent the possibility of polluting the potable water supply by back siphonage. **The fixture** ~~[These fixtures]~~ shall have a vacuum breaker. **A plumbing fixture, device or appurtenance** ~~[Plumbing fixtures, devices or appurtenances]~~ shall be installed in a manner that shall prevent **a** ~~[any]~~ possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 7. Connections to Boilers. **A** potable water **connection** ~~[connections]~~ to **a** boiler feed water **system** ~~[systems]~~ in which **a** boiler **water** conditioning **chemical is** ~~[chemicals are]~~ introduced shall be made through an air gap, or provided with a reduced pressure principle backflow preventer located in the potable water line before the point where **a chemical is introduced. A boiler** ~~[chemicals are introduced. Boilers]~~ shall be equipped with a check valve in the cold water supply to the boiler.

Section 8. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent contamination of the potable water supply system.

Section 9. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (3/4) inch. The hot and cold water piping shall extend three-fourths (3/4) inch in size to the first fixture branch. More than three and one-half (3 1/2) inch fixture branches shall not be supplied from **a** ~~[any]~~ one-half (1/2) inch pipe.

(2) The following schedule shall be used for sizing the water supply piping to **a fixture** ~~[fixtures]~~. The branch pipe to a fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and shall be brought to the floor or wall adjacent to the fixture. A concealed water branch pipe shall not be less than one-half (1/2) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bath tubs	1/2
Combination sink and tray	1/2
Cuspidor	1/2
Drinking fountain	1/2
Dishwasher (domestic)	1/2
Kitchen sink (res.)	1/2
Kitchen sink (com.)	1/2 or 3/4 as required
Lavatory	1/2
Laundry tray	1/2
Sinks (service, slop)	1/2
Sinks flushing rim	3/4
Urinal (flush tank)	1/2
Urinal (direct flush type)	1/2 or 3/4 as required
Water closet (tank type)	1/2

Water closet (flush valve type)	1
Hot water boilers	3/4
Hose bibs	1/2
Wall hydrant	1/2
Domestic clothes washer	1/2
Shower (single head)	3/4

(3) Water hammer. In **a** building supply **system** ~~[systems]~~ in which **a device or appurtenance is** ~~[devices or appurtenances are]~~ installed utilizing **a** quick acting **valve** ~~[valves]~~ that **causes noise** ~~[cause noises]~~ due to water hammer, **a** protective **device** ~~[devices]~~, including **an** air **chamber** ~~[chambers]~~ or approved mechanical shock **absorber** ~~[absorbers]~~, shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) If **a** mechanical shock **absorber is** ~~[absorbers are]~~ installed, **the absorber** ~~[they]~~ shall be in an accessible place.

(b) If **a** mechanical **device is** ~~[devices are]~~ used, the manufacturer's specifications shall be followed as to location and method of installation.

Section 10. Water Supply Pipes and Fittings, Materials. (1) Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing produced and labeled as ASTM B-586-73, fusion welded copper tubing produced and labeled as ASTM B-447-72 and ASTM B-251, DWV welded brass tubing produced and labeled as ASTM B-587-73, seamless stainless steel tubing, Grade H produced and labeled as ASTM A-268-68, filament-wound reinforced thermo-setting resin pipe produced and labeled as ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold), polyethylene (PE) plastic pipe produced and labeled as ASTM D-2239-69 or ASTM F-714, cross-linked polyethylene (PEX), produced and labeled as ASTM F-876 for cold water and ASTM F-877 for hot or cold water applications, cross-linked Polyethylene /Aluminum/Cross-linked Polyethylene (Pex-Al-Pex) produced and labeled as ASTM F-1281, Polyethyl-ene/Aluminum/Polyethylene (Pe-Al-Pe) produced and labeled as ASTM F-1282, copper tubing size PE produced and labeled as ASTM D-2737 for water service if installed with compression couplings, Poly(vinyl chloride) (PVC) plastic pipe produced and labeled as ASTM D-1785-69, Chlorinated Poly(vinyl chloride) (CPVC) plastic pipe produced and labeled as ASTM D-2846-70, Poly(vinyl chloride) (PVC) standard dimensional ratio (SDR) 21 and (SDR) 26 produced and labeled as ASTM D-2241-84, polybutylene (PB) plastic pipe produced and labeled as ASTM-D-3309-85b with brass or copper fittings.

(2) **A** plastic pipe **or fitting** ~~[and fittings]~~ shall bear the NSF seal of approval.

(3) Polybutylene pipe utilizing **an** insert **fitting** ~~[fittings]~~ of brass or copper shall use **a** copper clamping **ring** ~~[rings]~~.

(4) **A** polybutylene hot and cold water **connector** ~~[connectors]~~ to **a lavatory, sink or water closet** ~~[lavatories, sinks and water closets]~~ shall be produced and labeled as ASTM-D-3309-85b, and polybutylene plastic pipe produced and labeled as ASTM 2662 for **a cold water application** ~~[applications]~~.

(5) **A** **fitting** ~~[Fittings]~~ shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping **or a fitting that has** ~~[fittings that have]~~ been used for **another purpose** ~~[other purposes]~~ shall not be used for the water distribution system.

(6) **Each joint** ~~[All joints]~~ in the water supply system shall be made of **a** screw, solder, or plastic **joint. A** ~~[joints:]~~ cast iron water pipe **joint** ~~[joints]~~ may be caulked, screwed, or machine drawn.

(7) If Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or passes through a concrete floor, it shall be wrapped with an approved material to permit expansion or contraction.

(8) Polyethylene or PVC shall not be used below ground under a house or building. If **a** chlorinated poly(vinyl chloride) (CPVC) **joint or connection is** ~~[joints or connections are]~~ installed below ground under a house or building, the water distribution system shall be tested to at least 100 psi before backfilling. (Refer also to 815 KAR 20:060 and 815 KAR 20:073).

(9) Joints between copper tubing and galvanized steel pipe. **The joint** ~~[Joints]~~ between ferrous piping and copper or copper-alloy piping shall be made with a dielectric fitting or other insulating fitting to pre-

vent electrolysis.

Section 11. Temperature and Pressure Control Devices for Shower Installations. A temperature or pressure balance device [devices] to prevent a sudden unanticipated change [changes] in water temperature shall be installed to serve each shower compartment [all shower compartments] and shower-bath combination [combinations].

Section 12. Water Supply Control. (1) A main shutoff valve shall be provided near the curb, in or near the meter box or property line on the water service pipe. In addition, a main supply control valve shall be placed inside a foundation wall. The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation shall not be used for a potable water supply shutoff valve.

(2) A pressure or gravity tank shall have its supply line valved at or near its source. [on gravity tanks shall have their supply lines valved at or near their source.]

(3) A family unit in a two (2) family or multifamily dwelling shall have the unit controlled by an arrangement of shutoff valves which will permit the unit to be shutoff without interfering with the cold water supply to another family unit or portion [other family units or portions] of the building.

(4) In a building other than a dwelling, a shutoff valve [buildings other than dwellings, shutoff valves] shall be installed to permit the water supply to the equipment to be isolated without interference with the supply to other equipment.

(5) A fixture or group of bath fixtures shall be valved and a lawn sprinkler opening [openings] shall be valved. In residential construction, each fixture, except a bathtub or shower, [all fixtures except bathtub and showers] shall be valved individually or as a group of fixtures.

(6) A group of fixtures or a fixture group shall mean two (2) or more fixtures adjacent to or near each other in the same room or back-to-back on a common wall.

(7) The cold water branch to a hot water storage tank or water heater shall be provided with a shutoff valve located near the equipment and serving this equipment.

Section 13. Water Supply Protection. A concealed water pipe, storage tank, cistern, or other exposed pipe or tank subject to freezing temperatures shall be protected against freezing. A water service [All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services] shall be installed at least thirty (30) inches in depth.

Section 14. Temperature and Pressure Relief Devices for Water Heaters. (1) A temperature and pressure relief device [devices] shall:

(a) Be installed on each water heater [all water heaters] on the hot water side not more than three (3) inches from the top of the heater; and

(b) [Temperature and pressure relief devices shall] Be of a type approved by the department in an applicable administrative regulation.

(2)(a) If a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor.

(b) If a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground.

(c) The relief device may also discharge through an air gap to a sump basin, service sink, open receptacle or other point of discharge in which equivalent safety shall be provided as approved by the Division of Plumbing.

(3) A relief device [Relief devices] shall be installed on a pneumatic water system.

Section 15. Protection of a Private Water Supply or Source. A private water supply or source [Private water supplies or sources] shall be protected from pollution in a manner approved by the department in an applicable administrative regulation. The approval shall

be obtained prior to.

Section 16. Domestic Solar Water Heaters. A domestic solar water heater [heaters] may have a "single wall heat exchanger" if the following conditions are met:

(1) The solar panel and the water heater exchanger use a non-toxic liquid such as propylene glycol or an equivalent; [and]

(2) The heat exchanger is pretested by the manufacturer to 450 PSI; [and]

(3) The water heater has a warning label advising that a nontoxic heat exchanger fluid shall be used at all times; and

(4) A pressure relief valve is installed at the highest point in the solar panel.

Section 17. Domestic Water Heater Preheating Device. (1) A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air conditioner or heat pump water heater.

(2) Double wall heat-exchangers with two (2) separate thicknesses separating the heat exchange fluid (other than potable water) from the potable water supply shall be provided.

(3) The water inlet to the heat exchange vessel shall be provided with a check valve, and adjacent to, and at the outlet side of the check valve, an approved pressure relief valve set to relieve at five (5) PSI above the maximum water pressure at the point of installation shall be provided if the heat exchange units contain more than twenty (20) pounds of refrigerants. This device shall be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device.

(4) Condensate drain water shall be piped in accordance to the plumbing code and it shall not be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in an area [areas] subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump shall be utilized.

Section 18. Tanks and Vats, below Rim Supply. A tank or vat [Tanks and vats] with potable water supply below the rim shall be subject to the following requirements:

(1) If a potable water outlet terminates below the rim of a tank or vat and the tank or vat has an overflow of diameter not less than given in the following table, sizes of overflow pipes for water supply tanks, the overflow pipe shall be provided with an air gap as close to the tank as possible.

SIZES FOR OVERFLOW PIPES FOR WATER SUPPLY TANKS			
Maximum capacity of water supply line to tank	Diameter of Overflow pipe (inches ID)	Maximum capacity of water supply line to tank	Diameter of overflow pipe (inches ID)
0- 50 gpm	2	400- 700 gpm	5
50-150 gpm	2 1/2	700-1000 gpm	6
150-200 gpm	3	Over 1000 gpm	8

(2) The potable water outlet to the tank or vat shall terminate a distance not less than one and one-half (1 1/2) times the height to which water can rise in the tank above the top of the overflow. This level shall be established at the maximum flow rate of the supply to the tank or vat, and with all outlets, except the air gap overflow outlet closed.

(3) The distance from the outlet to the high water level shall be measured from the critical point of the potable water supply outlet.

Section 19. Water Distribution for Fan Coil Units. If a domestic water heater is used for heating purposes through a fan coil medium, its temperature shall not exceed 140 degrees Fahrenheit. It shall utilize not less than three-fourths (3/4) inch piping and its run shall not exceed 140 feet between the water heater and the heating unit (relates to 815 KAR 20:070).

Section 20. Fire Protection Systems. A fire protection system [systems] using water from the potable water distribution system shall be equipped with two (2) check valves, one (1) of which may be an alarm check valve.

Section 21. Water Distribution and Connections to Mobile Homes.

(1) An adequate and safe water supply shall be provided to each mobile home conforming to the administrative regulations of the department.

(2) All materials, including the pipe or fitting [pipes and fittings] used for a connection [connections], shall conform with the State Plumbing Code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space.

(a) The connection shall consist of a riser terminating at least four (4) inches above the ground with two and three-fourths (2 3/4) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control.

(b) The ground surface around the riser pipe shall be graded to divert surface drainage.

(c) The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or an equivalent with the intervening space filled with an insulating material to protect it from freezing.

(d) An insulated cover shall be provided which shall encase both valve outlets but not prevent connection to the mobile home during freezing weather.

(e) A shutoff valve may be placed below the frost depth on the water service line, but this valve shall not be a stop-and-waste cock.

Section 22. Conservation of water shall comply with the standards established in 815 KAR 20:070.

FRANK PHIEFFER, Chairman, Plumbing Code Committee
CHARLES A. COTTON, Commissioner

RONALD MCCLOUD, Secretary
JUDITH G. WALDEN, Office of General Counsel

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CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(As Amended at ARRS, July 13, 1999)

902 KAR 20:091. Facilities specifications, operation and services; community mental health-mental retardation center.

RELATES TO: KRS 202A.011(4), 202B.010(6), 210.370, 210.410, 210.450 [to 210.480], 216B.010, 216B.015, 216B.030, 216B.105 [to 216B.130], 216B.990, 311.560(4), 314.011(8), 314.042(8), 320.210(2), 645.020(5)

STATUTORY AUTHORITY: KRS 210.450(1), 216B.010, 216B.042, 216B.105, 314.011(8), 314.042(8), EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 require [that] the Kentucky Cabinet for Health Services to regulate health facilities and [health] services. KRS 210.450(1) requires the secretary to promulgate administrative regulations prescribing standards for qualification of personnel, quality of professional service, and personnel management operations. This administrative regulation establishes licensure requirements for the operation and [] services, and facility specifications of a community mental health-mental retardation center. [Executive Order 96-862; effective July 2, 1996; reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.]

Section 1. Definitions. (1) "Center" means a community mental health-mental retardation center.

(2) "Clinical psychologist" means a clinical psychologist certified or licensed pursuant to KRS 319.050(7), 319.056(2), (4), or 319.064(4) [Chapter 319].

(3) "Crisis stabilization unit" means a community-based facility operated by or under contract with a center to provide emergency services to no more than twelve (12) clients who require overnight stays.

(4) "Designated regional service area" means the geographical area to be served by the community mental health-mental retardation

center [as approved by the Secretary of the Cabinet for Health Services].

(5) [~~"Independent practitioner" means the following categories of licensed or certified practitioners whose clinical services may be provided independent of clinical supervision:~~

~~(a) Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;~~

~~(b) Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;~~

~~(c) Licensed psychologist who has been granted a license to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;~~

~~(d) Certified psychologist with autonomous functioning who has been certified to provide service without supervision by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;~~

~~(e) Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Examiners of Social Work in accordance with KRS 335.100;~~

~~(f) Advanced registered nurse practitioner, psychiatric-mental health clinical nursing practice, licensed by the Kentucky Board of Nursing in accordance with KRS 314.042;~~

~~(g) Certified marriage and family therapist certified by the Kentucky Board of Certification of Marriage and Family Therapists in accordance with KRS 335.300;~~

~~(h) Certified professional art therapist who is certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with KRS 309.130;~~

~~(i) Certified professional counselor who is certified by the Kentucky Board of Certification for Professional Counselors in accordance with KRS 335.500; and~~

~~(j) For the provision of substance abuse services only, certified alcohol and drug counselor who is certified by the Kentucky Board of Certification for Alcohol and Drug Counselors in accordance with the provisions of KRS Chapter 309, or who meets the equivalent requirements as staff of nonmedical alcohol treatment and education (NATE) or drug abuse treatment and education (DATE) programs as specified in 908 KAR 1:370.~~

~~(6) [(4)] "Licensee" means the governing body legally responsible for the community mental health-mental retardation center.~~

~~(6) "Plan of care" means a written plan that delineates the services to be provided to a client, and includes the short- and long-term goals of the plan.~~

~~(7) [(5)] "Psychiatric nurse" means a registered nurse who:~~

~~(a) Has a master's of science degree in nursing with a specialty in psychiatric or mental health nursing;~~

~~(b) Is a graduate of a four (4) year educational program with a bachelor of science degree in nursing and a minimum of one (1) year of experience in a mental health setting;~~

~~(c) Is a graduate of a three (3) year educational program with two (2) years of experience in a mental health setting; or~~

~~(d) Is a graduate of a two (2) year educational program with an associate degree in nursing and [with] three (3) years of experience in a mental health setting.~~

~~(8) [(6)] "Qualified social worker" means a social worker with a master's degree from an accredited school of social work who is licensed or exempt from licensure pursuant to KRS Chapter 335.~~

~~(9) "Time out" means a treatment intervention that separates [utilized by staff to separate] a client from others in a nonsecure area for a time-limited period to permit the client time to regain control over his behavior.~~

Section 2. Scope of Operation and Services. A community mental health-mental retardation center shall provide a comprehensive range of accessible and coordinated mental health-mental retardation services, including direct [services] or indirect mental health or mental retardation services, to the population of a designated regional service area, as required by KRS 210.370 to 210.480.

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

(a) The licensee shall be legally responsible for:

1. The center;

2. ~~[-for]~~ The establishment of administrative policy; and

3. ~~[policies; and for]~~ Compliance with federal, state, and local law ~~[laws and regulations]~~ pertaining to the operation of the center.

(b) To obtain or renew a license to operate a center, the licensee shall comply with the requirements of this administrative regulation and the requirements of relevant ~~[all]~~ statutes and administrative regulations ~~[applicable to the services and programs offered by the center]~~.

(2) Executive director. The licensee shall designate an executive director, qualified by training and experience, who shall be responsible for:

(a) The total program of the center and its affiliates in accordance with the center's written policies; and

(b) Evaluation of the program as it relates to the client's needs.

(3) Policies. The licensee shall establish written policies for the administration and operation of the center which shall be available to staff and which shall include:

(a) A description of the organizational structure specifying the responsibility, function and interrelations of each organizational unit, and the ~~[which describes responsibilities, functions and interrelations of all units and]~~ lines of administrative and clinical authority;

(b) The appropriate method and procedure ~~[methods and procedures]~~ for ~~[the]~~ storage, dispensing and administering of a drug or biological agent ~~[drugs and biologicals]~~;

(c) Client grievance procedure ~~[procedures for clients]~~;

(d) Confidentiality and use of client records in accordance with federal, state, and local statutes and regulations; and

(e) Personnel policy, ~~[policies]~~ including:

1. A job description ~~[descriptions]~~ and qualifications for each ~~[type of]~~ personnel category;

2. Wage scale ~~[scales]~~, hours of work, vacation and sick leave;

3. A plan ~~[Plans]~~ for orientation of ~~[all]~~ personnel to the policies and objectives of the center and for on-the-job training, if necessary; and

4. Periodic evaluation of employee performance.

(4) Client ~~[Medical]~~ records. A client ~~[medical]~~ record shall be maintained for each individual receiving services.

(a) Each entry ~~[All entries]~~ shall be current, dated, signed, and indexed according to the service received;

(b) A client record ~~[All medical records]~~ shall be retained for at least ~~[a minimum of]~~ five (5) years or, in the case of a minor, three (3) years after the client reaches the age of majority, whichever is longer;

(c) Each client record ~~[All client records]~~ shall be kept in a locked file ~~[files]~~ and treated as confidential. Information contained in a client record shall:

1. Be disclosed to an authorized person; and

2. Not be disclosed to an unauthorized person;

(d) Each client ~~[medical]~~ record shall contain:

1. An identification sheet;

2. Information on the purpose for seeking a service;

3. A history of findings and treatments rendered;

4. Screening information pertaining to the problem;

5. Staff notes on services provided;

6. Pertinent medical, psychiatric and social information;

7. Disposition;

8. Assigned status;

9. Assigned therapists; and

10. A termination study recapitulating findings and events during treatment, clinical impressions, and condition on termination.

(5) Personnel. ~~[Minimum staffing requirements for]~~ A community mental health center shall employ ~~[include]~~ the following full-time personnel:

(a) 1. A program director who shall be a:

a. Psychiatrist;

b. Certified or licensed psychologist;

c. Psychiatric nurse; or

d. ~~[a]~~ Qualified social worker.

2. The program director may be the executive director;

(b) 1. A board-certified or board-eligible psychiatrist who shall:

a. Be responsible for treatment planning;

b. Provide psychiatric service as indicated by client needs; and

c. Supervise and coordinate the provision of ~~[all]~~ psychiatric services by the center.

2. This position may be filled by more than one (1) psychiatrist if the total hours worked are equivalent to one (1) full-time position;

(c) A clinical psychologist who shall provide evaluation and screening services for the client as well as individual or group therapy;

(d) A psychiatric nurse who shall provide or supervise nursing service for psychiatric care;

(e) A qualified social worker who shall provide social services as required; and

(f) A person who shall assure that client ~~[medical]~~ records are maintained and that information is immediately retrievable.

Section 4. Services. (1) The center shall provide services in the designated regional service area directly or through contract.

(2) Direct services. The center shall provide a sufficiently wide range of treatment ~~[treatments]~~ to meet client ~~[the clients']~~ needs, including:

(a) Individual therapy;

(b) Family~~[-or group]~~ therapy;

(c) Group therapy;

(d) Play therapy;

(e) Behavior modification; and

(f) ~~[-or]~~ Chemotherapy.

(3) ~~[Treatment]~~ Plan of care.

(a) Each client receiving direct treatment under the auspices of a community mental health center shall have an individual ~~[treatment]~~ plan of care signed by a clinically licensed or certified professional provider of the treatment.

(b) A medical service, including a change of medication, a diet restriction, or a restriction on physical activity shall be ordered by a physician or other ordering practitioner acting within the limits of his statutory scope of practice ~~[advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8)]~~.

~~[(c) The treatment plan shall establish a diagnosis and indicate services required, as well as short-term and long-term goals.]~~

(4) The center shall provide:

(a) A therapeutic program for a person who requires less than twenty-four (24) hour a day care, and more than outpatient care (i.e., partial hospitalization or day care). A psychiatrist shall be present on a regularly scheduled basis to provide consultant services to staff;

(b) Inpatient services through affiliation with a licensed community hospital for a person requiring full-time inpatient care. A center that does not have an affiliation contract in effect shall be considered to be in compliance with this requirement if the center documents a good faith effort to enter into an affiliation contract;

(c) Outpatient service ~~[services]~~ on a regularly scheduled basis with arrangements made for a nonscheduled visit during a time of increased stress or crisis. The outpatient service ~~[services]~~ shall provide diagnosis and evaluation of a psychiatric problem and a referral to other services or agencies as indicated by the client's needs;

(d) Emergency service ~~[services]~~ for the immediate evaluation and care of a person in a crisis situation on a twenty-four (24) hour a day, seven (7) day a week basis. All components of the emergency service shall be coordinated into a unified program that enables a client receiving an emergency service to be readily transferred to another service of the center as client needs dictate; and

(e) Consultation and education services for an individual and various community agencies and groups to increase the visibility, identifiability, and accessibility of the center and to promote mental health through the distribution of relevant mental health knowledge.

(5) The center shall have a utilization and review plan for the evaluation of the service needs of each client. The need for continuing a service element for each individual shall be evaluated with sufficient frequency to ensure that proper arrangements have been made for discharge, for transfer to other elements of service, or referral to another service provider if appropriate.

(6) Medications. A treatment involving medication or chemotherapy shall be administered under the direction of a licensed physician or other qualified practitioner, acting within the scope of his practice, and:

(a) ~~[Records of all]~~ Medication or chemotherapy used in treatment

shall be **recorded** in the staff notes on a special medications chart in the **client [medical]** record;

(b) A copy of the prescription[~~with a limit of no more than three (3) refills;~~] shall be kept in the **client [medical]** record;

(c) Blood or another laboratory test or examination shall be performed in accordance with accepted medical practice on each individual receiving medication prescribed or administered by the center;

(d) Drug supplies shall be stored under proper sanitary, temperature, light and moisture conditions;

(e) **Medication [All medications]** kept by the center shall be properly labeled;

(f) A medication shall be stored in the originally received container unless transferred to another container by a pharmacist or another person licensed to transfer the medication; and

(g) Medication kept in the center shall be kept in a locked cabinet.

1. A controlled substance shall be kept under double lock (e.g., in a locked box in a locked cabinet).

2. There shall be a controlled substances record, in which is recorded:

a. The name of the patient;

b. The date, time, dosage, balance remaining and method of administration of **each [all]** controlled **substance [substances]**;

c. The name of the prescribing physician or **other ordering practitioner acting within the limits of his statutory scope of practice [advanced-registered-nurse-practitioner-as-authorized-in-KRS-314.011(8) and 314.042(9)]**; and

d. The name of the nurse who administered it, or staff who supervised the self-administration.

3. Except for medication to be self-administered in a crisis stabilization unit, ~~[A nursing medication cabinet shall be kept locked and] access to the locked cabinet shall be restricted to a designated medication nurse. Medication to be self-administered in a crisis stabilization unit shall be made available to the patient at the time of administration.~~

Section 5. Crisis Stabilization. (1) ~~[A crisis stabilization program as a part of] Emergency services provided [by a center] in a crisis stabilization unit shall include the following:~~

(a) A mental status evaluation and physical health questionnaire of the client upon admission;

(b) A treatment planning process;

(c) **Procedure [Procedures] for crisis intervention [interventions]**; and

(d) Discharge and aftercare planning processes.

(2) A program shall have a written **policy [policies]** concerning the operation of a crisis stabilization unit including:

(a) Staffing.

1. At least one (1) direct-care staff member shall be assigned **direct-care responsibility for:**

a. ~~[responsibilities for] Every four (4) clients during normal waking hours; and~~

b. ~~[at least one (1) direct-care staff member shall be assigned direct-care responsibilities for] Every six (6) clients during normal sleeping hours;~~

2. Administrative oversight of the program shall be provided by a staff member who **shall be [is]:**

a. **A person licensed or certified to provide mental health services independent of clinical supervision; [An independent practitioner as defined in Section 1(5) of this administrative regulation];**

b. A qualified **mental [medical]** health professional as defined in KRS 202A.011(12); or

c. A person qualified to be program director under Section 3(5)(a) of this administrative regulation.

3. **The center shall provide a training program for direct care staff pertaining to the care of a client in a crisis stabilization unit. [A program shall establish and implement a training program for direct-care staff pertaining to the care of clients in a crisis stabilization program.]**

(b) **Criteria to [Eligibility criteria shall] assure that each client [clients] in a crisis stabilization program shall be [are]:**

1. **In either one (1) of two (2) separate programs, child or adult, separated by [Divided between adults and children into separate programs and] physical location.** A children's program may

serve a resident up to age twenty-one (21) if it is more developmentally appropriate for that resident;

2. In need of short-term behavior management and at risk of placement in a higher level of care;

3. Able to take care of his own personal needs, if an adult;

4. Medically able to participate in services; and

5. [Being] Served in the least restrictive environment available in the community.

(c) Referrals for physical health services to include diagnosis, treatment, and consultation for acute or chronic illnesses occurring during the client's stay in the crisis stabilization unit or for problems identified during the admission assessment.

(d) Rights of a crisis stabilization client, [clients] to include:

1. A description of the client's rights and the means by which these rights are protected and exercised.

2. At the point of admission, the program shall provide the client and his parents, if he is a child, his guardian, or other legal representative with a clearly written and readable statement of rights and responsibilities. The statement shall be read to the client and his parents, if he is a child, his guardian, or other legal representative if either cannot read and shall cover[~~at a minimum~~]:

a. The right [Each client's access] to treatment, regardless of race, religion, or ethnicity;

b. The [Each client's] right to recognition and respect of [his] personal dignity in the provision of all treatment and care;

c. The [Each client's] right to be provided treatment and care in the least restrictive environment possible;

d. The [Each client's] right to an individualized [treatment] plan of care;

e. The right of the client [Each client's] and his parents [parent's], if he is a child, or his legal representative, to participate [representative's participation] in treatment planning;

f. The nature of care, procedures, and treatment that he shall receive;

g. The risks, side effects, and benefits of all medications and treatment procedures used; and

h. The right, to the extent permitted by law, to refuse the specific medications or treatment procedures and the responsibility of the facility when the client refuses treatment, to seek appropriate legal alternatives or orders of involuntary treatment, or, in accordance with professional standards, to terminate the relationship with the client upon reasonable notice.

3. The rights of clients shall be written in language which is understandable to the client, and his parents, if he is a child, his guardian or other legal representative, and shall be posted in appropriate areas of the facility.

4. The policy and procedure concerning the clients' rights shall assure and protect client [the client's] personal privacy within the constraints of his [treatment] plan of care. These rights to privacy shall include:

a. Visitation by family or significant others in a suitable area of the facility; and

b. Telephone communications with family or significant others at a reasonable frequency.

5. If a [any rights to] privacy right is [are] limited, the client and his parents, if he is a child, or his guardian or other legal representative, shall receive a full explanation. A limitation [limitations] to a privacy right [rights] shall be documented in the client's record.

6. The client and his parents, if he is a child, his guardian, or other legal representative, shall be informed of the use and disposition of a product [products] of special observation and audio visual techniques such as:

a. One (1) way vision mirror;

b. Audio recording;

c. Video tape recording;

d. Television;

e. Movie; or

f. Photograph. [mirrors, tape recorders, television, movies, or photographs.]

7. Written policy and procedure developed in consultation with professional and direct-care staff shall provide for [the measures utilized by the facility to manage] behavior management of a child client, [of clients who are children] including the use of a time-out

room. ~~The policy and procedure for [Policies and procedures related to the] use of a time-out room shall be approved by the Department for Mental Health and Mental Retardation. Behavior management techniques [These measures] shall be [fully] explained fully to each client and his parents, or his guardian or other legal representative.~~

8. The facility shall prohibit ~~[all] cruel and unusual behavioral management measures, including corporal punishment, [and] the use of a seclusion room, and mechanical restraint as defined in 905 KAR 1:300.~~

9. Written policy shall prohibit ~~a client [clients] from administering a disciplinary measure [measures] upon [one] another client and shall prohibit a person [persons] other than professional or direct-care staff from administering a disciplinary measure [measures] to a child client [clients who are children].~~

(e) The use of therapeutic holds as a safe ~~behavioral [physical] management technique. The policy shall describe [shall include]:~~

1. Criteria for appropriate use of therapeutic holds;
2. Documentation requirements; and

3. ~~The requirement for completion of a training course approved by the [Staff shall complete a] Department of Mental Health and Mental Retardation, [approved training course] prior to using therapeutic holds.~~

(f) ~~The requirement that a licensed psychiatrist shall be available to evaluate, provide treatment and participate in treatment planning on a regular basis.~~

(g) ~~The procedure [program shall have written policies and procedures] for proper management of pharmaceuticals, [that are] consistent with the requirements of Section 4(6) of this administrative regulation.~~

(h) ~~Except for a program accredited by the Joint Commission for Accreditation of Health Organizations or the Commission on Accreditation of Rehabilitation Facilities, general procedures [a crisis stabilization unit shall establish and adhere to written policies and procedures] that address the following:~~

1. Procedures to be followed by staff in the event of a medical emergency of a client;
2. Proper nutrition;
3. Emergency preparedness;
4. Security; and
5. School attendance for children.

(3) ~~Facility requirements for a crisis stabilization unit [units].~~

(a) A living unit shall be located within a single building and shall include:

1. Bedrooms.

a. ~~No more than four (4) clients shall sleep in a bedroom. [Bedrooms shall not be used to sleep more than four (4) clients.]~~

b. A bedroom [Bedrooms] shall be equipped with a bed for each client.

c. A bed [Beds] shall be at least [not less than] thirty-six (36) inches wide and at least [not less than] five (5) feet in length and shall be long and wide enough to accommodate the client's size.

d. A bed shall have a mattress cover, two (2) sheets, [and] a pillow, and such bed covering as is required to keep the client comfortable.

e. A ~~[] shall be provided for each bed. Each] bed shall be equipped with a support mechanism and a clean mattress.~~

f. A bed ~~[e. Beds occupied by clients] shall be placed so that no client may experience discomfort because of proximity to a radiator or heat outlet [radiators, heat outlets], or exposure to a draft [drafts].~~

g. ~~[d.] There shall be separate sleeping quarters for males and females.~~

h. A client ~~[e. Clients] shall not be housed in a room, a [rooms,] detached building [buildings], or other enclosure that has not previously been [enclosures which have not been previously] inspected and approved for residential use by the licensure agency and the Department of Housing, Buildings and Construction.~~

2. Bathrooms. Each living unit shall have at least ~~[a minimum of] one (1) wash basin with hot and cold water, one (1) flush toilet, and one (1) bath or shower with hot and cold water for every eight (8) resident clients[, or fraction thereof, within the living unit]. If separate toilet and bathing [bath or shower] facilities are not provided,~~

males and females shall not be permitted to use those facilities at the same time.

3. Living area.

a. The living area shall provide comfortable seating for all clients housed within the living unit.

b. Each living unit shall be equipped with a working sink, stove and refrigerator, unless a kitchen is directly available within the same building as the living unit.

c. A living unit shall house a maximum of twelve (12) clients.

Section 6. Facility Specifications. (1) A facility housing a community mental health-mental retardation center ~~or a crisis stabilization unit~~ shall be a general purpose buildings of safe and substantial construction and shall be in compliance with applicable state and local laws relating to zoning, construction, plumbing, safety, and sanitation. The following [requirements] shall apply if relevant [applicable] and as adopted by the respective agency authority:

(a) Requirements for fire safety pursuant to 815 KAR 10:050[as amended]; and

(b) Requirements for making a building or facility accessible to and usable by an individual with disabilities, pursuant to KRS 198B.260 and administrative regulations promulgated thereunder.

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

(3) A facility shall be currently approved by the Department of Housing, Buildings and Construction in accordance with 815 KAR 10:050, before relicensure is granted by the licensure agency.

TIMOTHY L. VENNO, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: May 11, 1999

FILED WITH LRC: May 12, 1999 at 11 a.m.

CABINET FOR HEALTH SERVICES Department for Public Health Division of Adult and Child Health (As Amended at ARRS, July 13, 1999)

902 KAR 22:040. Charitable health care providers.

RELATES TO: KRS 216.940, 216.941, 304.40-075

STATUTORY AUTHORITY: KRS 194A.030(4), 216.941(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.941(3) requires a charitable health care provider or sponsoring organization to register with the cabinet by submitting a registration fee of fifty (50) dollars and filing a registration form required by the cabinet prior to providing charitable health care services in Kentucky. This administrative regulation establishes the registration forms required for a charitable health care provider or sponsoring organization. [Pursuant to KRS 216.941 the Cabinet for Health Services is charged with the responsibility of promulgating administrative regulations to implement registration of Charitable Health Care Providers. The forms incorporated by reference in this administrative regulation shall implement that requirement.]

Section 1. Definitions. (1) "Charitable health care provider" is defined by KRS 216.940(1).

(2) "Sponsoring organization" is defined by KRS 216.940(2).

Section 2. Registration Requirements. (1) Pursuant to KRS 216.941(3), a charitable health care provider shall file with the cabinet a completed Form CHP-1, Registration of Charitable Health Care Providers.

(2) Pursuant to KRS 216.941(3), a sponsoring organization shall file with the cabinet a completed Form SO/CHP-1, Registration of Sponsoring Organization of Charitable Health Care Providers.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) CHP-1, Registration of Charitable Health Care Providers, May 1999; and

(b) SO/CHP-1, Registration of Sponsoring Organizations of Charitable Health Care Providers, May 1999.

(2) This material may be inspected, copied, or obtained at the Kentucky Department for Public Health, Division of Adult and Child Health, Community Health Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

RICE C. LEACH, M.D., Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: January 14, 1999

FILED WITH LRC: January 15, 1999 at 9 a.m.

CABINET FOR HEALTH SERVICES
Officer of Inspector General
Division of Licensing and Regulation
(As Amended at ARRS, July 13, 1999)

906 KAR 1:110. Critical access [Rural primary-care] hospital services.

RELATES TO: KRS 216.380, 216B.010, 216B.015, 216B.040, 216B.042, 216B.045 to 216B.055, 216B.075, 216B.105 to 216B.131, 331.560(4), 314.011(8), 42 CFR 485.618(d) [HB 310, 1992 GA]

STATUTORY AUTHORITY: KRS 216.380(11), [216B.010,] 216B.040(3)(a), 216B.042(1)(a), (c) [HB 310, 1992 GA, sec. 3(11)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.380(11) [216B.042] requires [HB 310 of the 1992 GA mandates that] the Cabinet for Health Services to promulgate administrative regulations necessary to implement a program for licensure of critical access hospitals [regulate health facilities and health services] [Human Resources promulgate administrative regulations necessary to implement a licensure program for rural primary-care hospitals]. [KRS 216.380(11) requires] This administrative regulation [which] establishes [sets forth] quality of care and licensure standards for critical access [rural primary-care] hospitals.

Section 1. Definitions. "Licensee" means a general acute-care hospital relicensed as a critical access [the rural primary-care] hospital.

Section 2. [Special Provisions. (1) The rural primary-care hospital (RPGH) shall be licensed in accordance with 902 KAR 20:008.

(2) The RPGH shall submit a licensure application (which shall include the types of medical conditions proposed to be treated at the RPGH) and strategic plan to the Kentucky Board of Family Health Care Providers (KBFHCP).

(3) The KBFHCP shall review the RPGH's application and plan and make recommendations to the Division of Licensing and Regulation.

(4) Prior to licensure, the Division of Licensing and Regulation shall consider the recommendations of the KBFHCP.

(5) Prior to licensure as a RPGH, a licensed acute-care hospital shall have been found to be in compliance with 902 KAR 20:009 on its last licensure survey.

(6) The RPGH shall comply with the scope of its licensure application.

Section 3. Administration and Operation. (1) The licensee shall be legally responsible for the operation of the critical access hospital [RPGH] and for compliance with federal, state, and local law [laws and administrative regulations] pertaining to the operation of the critical access hospital [RPGH].

(2) A critical access hospital [The RPGH] shall be under the medical direction of a physician licensed to practice medicine in Kentucky.

(3) The licensee shall:

(a) Establish written policies and lines of authority; and

(b) Designate the person [who will be] principally responsible for the daily operation of the critical access hospital [RPGH].

(4) The licensee shall develop a patient care policy [policies] with

the advice of a group of professional persons, as [personnel] identified by the licensee.

(a) The group of professional persons [personnel] shall include:

1. One (1) or more physicians licensed in the Commonwealth of Kentucky; and

2. One (1) or more persons who are not members of the [RPGH] staff.

(b) The patient care policy [policies] shall include:

1. A description of services that the critical access hospital [RPGH] shall provide directly or through contractual agreement;

2. A written program narrative describing in detail the:

a. Services to be offered;

b. Methods and protocols for service delivery;

c. Qualifications of personnel to be involved in the delivery of services; and

d. Outcomes expected to be reached through the delivery of specified services.

3. Guidelines for medical case management of health problems which include:

a. Criteria for determining if a case requires medical consultation;

b. Patient referral procedures; and

c. Maintenance of health records.

4. Procedures for [requiring] the proper storage, handling and administration of drugs and biologicals; and

5. Procedures establishing the annual review and evaluation of services provided [by the RPGH].

(5) A critical access hospital [The RPGH] shall establish a [adopt] written policy [policies] regarding patient [the] rights and responsibilities. The policy [of patients. These patients' rights policies] shall assure that each patient is:

(a) Informed of these rights and of [all] rules and regulations governing patient conduct and responsibilities, including a procedure for handling patient grievances;

(b) Informed of services available [at the RPGH] and [of] related charges, including [any] charges not covered by [under] Medicare, Medicaid, or other third-party payor [arrangements];

(c) Informed of his:

1. Medical condition, unless medically contraindicated as documented in his [the patient's] medical record;

2. Right to participate in [the] planning [of] his medical treatment; and

3. Right to refuse to participate in experimental research;

(d) Assisted in understanding his patient rights;

(e) Provided confidential treatment of his records and is given [afforded] the opportunity to approve or refuse their release to an [any] individual not involved in his care, except as required by Kentucky law or third-party payment contract;

(f) Treated with consideration, respect, and [full] recognition of his dignity and individuality, including privacy in treatment and in the care of his personal health needs; and

(g) Informed of the procedure for filing a grievance or a recommendation [procedures through which to file grievances or recommendations] to change a policy or service [policies and services]. The policy shall establish a time frame within which [the] critical access hospital [RPGH] personnel shall determine what corrective action to take.

(6) Personnel.

(a) Staffing shall be in accordance with KRS 216.380(6). [A critical access hospital [The RPGH]] shall employ or contract with such staff as deemed essential to the [RPGH's] operation.]

(b) A physician shall:

1. Be responsible for all medical aspects of the critical access hospital [RPGH];

2. Provide direct medical services in accordance with [the Medical Practice Act,] KRS Chapter 311.

3. Be present to provide medical direction, supervision, and consultation to the staff at least once in every two (2) week period, unless no patient has [patients have] been treated since the last visit;

4. Participate with other medical personnel in developing, executing, and periodically reviewing [the RPGH's] written policies and services;

5. Review and sign [the RPGH's] patient records during the [his] site visit; and

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6. Provide medical orders and medical care services to patients [of the RPHG] in accordance with the critical access hospital [RPHG's] protocols.

(c) A registered nurse or licensed practical nurse shall be on duty when an inpatient is present. [A physician extender where utilized shall provide medical care services as permitted by their scope of practice and RPHG protocols.]

(7) [Transfer and linkage agreements:

(a) The critical access hospital [RPHG] shall have transfer and linkage contracts that meet the requirements of KRS 216.380(8) and (9)(a). [with each of the following for:

1. Secondary and tertiary hospital services;

2. Additional and specialized diagnostic and laboratory services that are not available at the RPHG;

3. Home health agency services;

4. Nursing facility services if not provided on site;

5. Emergency medical services;

6. Pharmacy services if not provided directly by the RPHG; and

7. Dietary services if not provided directly by the RPHG.

(b) Transfer and linkage contracts with inpatient care facilities shall incorporate provisions for the:

1. Referral and transmittal of patients from the RPHG;

2. Coordination of discharge planning with the RPHG staff; and

3. RPHG to receive a copy of the discharge summary and, if necessary, the medical record of each patient referred to the RPHG.

(c) The transfer and linkage contracts shall include provisions establishing the following protocol and responsibilities between the RPHG and the inpatient care facility:

1. Transfer of patient information;

2. Transportation of patients;

3. Utilization of services, equipment, and personnel; and

4. Extent of care, whether total or partial, to be provided by the RPHG or the inpatient care facility.]

(8) Medical records.

(a) A critical access hospital [The RPHG] shall maintain medical records. A medical record [identifying all family members (a single patient may be considered a family unit). Medical records] shall contain at least the following:

1. The names of the patient's immediate family members;

2. Medical and social history, including data obtainable from other providers;

3. [2.] Description of each medical visit or contact, including:

a. [to include] Condition or reason necessitating visit or contact;

b. Assessment;

c. Diagnosis;

d. Services provided;

e. Medications and treatments prescribed; and

f. Disposition made;

4. [3.] Reports of [all] laboratory, x-ray, and other test findings; and

5. [4.] Documentation of [all] referrals made, including:

a. Reason for referral;

b. To whom patient was referred; and

c. [any] Information obtained from referral source.

(b) Confidentiality of [all] individual patient records shall be maintained at all times.

(c) Transfer of records. The critical access hospital [RPHG] shall establish systematic procedures to assist in continuity of care if [where] the patient moves to another source of care, and [the RPHG] shall, upon proper release, transfer medical records or an abstract upon request.

(d) Retention of records. After patient's death or discharge, the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(9) Utilization review and medical audit. In order to determine the appropriateness of services [the service(s)] delivered, there shall be a written plan for utilization review [developed by the RPHG] which specifies the frequency of reviews and composition of the body conducting the review.

(10) Quality assessment and performance improvement [assurance] program.

(a) A critical access hospital [The RPHG] shall have a [written quality assurance] program, in accordance with KRS 216.380(7), to ensure continuous and effective mechanisms for:

1. Review and evaluation of patient care; and

2. Corrective action.

(b) The [quality assurance] program shall be approved by the licensee.

(c) The [RPHG quality assurance] program shall:

1. Establish responsibility [responsibilities] for [the] monitoring and evaluation of services:

2. Delineate the scope of care;

3. Identify specific aspects of care to be provided [by the RPHG]; [and]

4. Establish and document clinical criteria [to be] used to monitor [all aspects of] care and services;

5. Systematically evaluate the standard of care to identify problems and recommend corrective action [actions] or alternatives to improve the standard of care;

6. Establish criteria to assess the effectiveness of [the] corrective action [actions] taken to improve care; and

7. Require documentation of [any] improvements in the standard of care, subsequent to corrective action [actions] taken.

(11) Contracted services. The critical access hospital [RPHG] shall assure [be responsible for assuring] that a service [any services] provided under contract is properly [shall be] licensed or certified in accordance with applicable local, state, and federal regulations and statutes.

Section 3. [4:] Provision of Services. (1) The critical access hospital shall provide the services required by KRS 216.380(4). [The RPHG staff shall furnish those diagnostic and therapeutic services and supplies that are commonly furnished in a physician's office or at the entry point into the health care delivery system. These include medical history, physical examination, assessment of health status, and treatment for a variety of medical conditions.]

(2) A critical access hospital [The RPHG staff] shall provide, either directly or through contract, basic laboratory services essential to the immediate diagnosis and treatment of the patient on a twenty-four (24) hour basis. If the critical access hospital [RPHG] provides laboratory services directly, the service [it] shall be in compliance with 902 KAR 20:016, Section 4(4). If the critical access hospital [RPHG] contracts for laboratory services, the laboratory it contracts with shall [must] be in compliance with KRS Chapter 333. The following services shall be provided [including]:

(a) Chemical examination [examinations] of urine, including ketone measurement, by stick or tablet method, [methods] or both [(including urine ketones)];

(b) Microscopic examination [examinations] of urine sediment;

(c) Hemoglobin or hematocrit;

(d) Blood sugar;

(e) Gram stain;

(f) Examination of stool specimens for occult blood;

(g) Pregnancy tests;

(h) Primary culturing for transmittal to a hospital laboratory or licensed laboratory; and

(i) Test for pinworms.

(3) A critical access hospital [The RPHG] shall provide medical emergency procedures as a first response to common life-threatening injuries and acute illness, and shall have available the drugs and biologicals commonly used in life-saving procedures, such as analgesics, local anesthetics [(local)], antibiotics, anticonvulsants, antidotes and emetics, serums and toxoids.

(a) [Emergency room care shall be provided on a twenty-four (24) hour basis:

(b) Examination services shall be provided by the critical access hospital [RPHG] in accordance with 902 KAR 20:012.

(b) There shall be a physician, nurse practitioner, or physician assistant with training or experience in emergency care on-call and immediately available by telephone or radio contact, and available on site within thirty (30) minutes on a twenty-four (24) hour per-day basis.

(c) A registered nurse shall be on duty at the hospital to provide immediate emergency care on a twenty-four (24) hour

per day basis.

(d) Emergency services shall be provided in accordance with KRS 216.380(4).

(4) In accordance with KRS 216.380(4)(b), a critical access hospital shall provide, either directly or through contract, basic pharmacy services essential to the treatment of the patient, on a twenty-four (24) hour basis.

(a) If the critical access hospital provides pharmacy services directly, it shall be in compliance with 902 KAR 20:016, Section 4(5).

(b) If the critical access hospital contracts for pharmacy services, the pharmacy it contracts with shall be in compliance with KRS Chapter 315.

(5) In accordance with KRS 216.380(4)(b), a critical access hospital shall provide, either directly or through contract, basic radiology services essential to the immediate diagnosis and treatment of the patient, on a twenty-four (24) hour basis.

(a) If the critical access hospital provides radiology services directly, it shall be in compliance with 902 KAR 20:016, Section 4(6).

(b) If the critical access hospital contracts for radiology services, the radiology service it contracts with shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any administrative regulations [promulgated] thereunder.

(6) [(c) At least one (1) person shall be on duty at the RPGH who is minimally certified as a provider by the American Heart Association in advanced cardiac life support and certified as a basic trauma life support provider advanced in accordance with the American College of Emergency Physicians curriculum.

(4) Supplemental services: A RPGH may provide additional services to complement the basic services of the RPGH. Additional services shall be identified and submitted to the Division of Licensing and Regulation for review prior to delivery of services. A RPGH may contract with another provider to deliver supplemental services. Supplemental services may include:

(a) Surgical services within the scope of RPGH license;

(b) Obstetrics within the scope of the RPGH license;

(c) Primary care in accordance with 902 KAR 20:058;

(d) Adult day health care in accordance with 902 KAR 20:066;

(e) Respite care; or

(f) Rehabilitative and therapeutic services in accordance with 902 KAR 20:016, Section 4(7).

(5) Pursuant to KRS 216.380(4)(b), dietary services shall be provided either directly or by contract in accordance with 902 KAR 20:016, Section 4(3), when an inpatient is [resides] in the critical access hospital [RPGH] for more than twelve (12) hours.

[(6) Long-term care beds, if provided, shall be in accordance with applicable state and federal regulations as follows:

(a) Dual licensure beds shall be in compliance with 902 KAR 20:220;

(b) Swing beds shall be in compliance with 42 CFR 405; and

(c) Nursing facility beds shall be in compliance with 902 KAR 20:300 and 42 CFR 483.]

Section 4. [5:] Physical and Sanitary Environment. A critical access hospital [The RPGH] shall comply with the provisions of 902 KAR 20:016, Section 3(10).

Section 5. Facility Requirements. A critical access hospital shall comply with the requirements of 902 KAR 20:009 related to the services offered.

TIMOTHY L. VENNO, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(As Amended at ARRS, July 13, 1999)

907 KAR 3:090. Acquired brain injury services.

RELATES TO: KRS 205.8451, 205.8477, 42 CFR 441 Subpart G, 455 Subpart B, 42 USC 1396a, b, d, n, 1998 Ky. Acts ch. 615, Part IX, 25.h

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520
 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes 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 establishes the coverage provisions relating to home- and community-based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services for the purpose of rehabilitation and retraining for reentry into the community with existing resources.

Section 1. Definitions. (1) ["Department" means the Department for Medicaid Services or its designated agent.

(2) "Acquired brain injury (ABI) waiver services" means home and community-based waiver services provided to a Medicaid eligible person aged twenty-one (21) to sixty-five (65) who has acquired a brain injury to his central nervous system of the following nature:

(a) Injury from a physical trauma;

(b) Damage from anoxia or hypoxic episode; or

(c) Damage from an allergic condition, toxic substance or another acute medical incident.

(2) "Department" means the Department for Medicaid Services or its designated agent.

Section 2. Exclusions of the Acquired Brain Injury Waiver Program. A condition included in the following list [includes conditions which] shall not be considered acquired brain injuries requiring specialized rehabilitation:

(1) A stroke treatable in a nursing facility providing routine rehabilitation services;

(2) A spinal cord injury in which there is no known or obvious injury to the intracranial central nervous system;

(3) Progressive dementia or another mentally impairing condition of a chronic degenerative nature such as, senile dementia, organic brain disorder, Alzheimer's Disease, alcoholism or another addiction;

(4) A depression or a psychiatric disorder in which there is no known or obvious central nervous system damage;

(5) Birth defect;

(6) Mental retardation without an etiology to the acquired brain injury; or

(7) A condition which causes an individual to pose a level of danger or aggression which is unable to be managed and treated in the community.

Section 3. General Coverage Provision. (1) The aggregate cost of the ABI Waiver Program shall not exceed the cost of care in a nursing facility as established in the 1998 Ky. Acts ch. 615, Part IX, 25.h.

(2) ABI waiver services shall be provided to an individual eligible for Medicaid who:

(a) Is twenty-one (21) to sixty-five (65) years of age with an impairment that involves [may involve] cognition, behavior, or a physical function which necessitates supervised and supportive services;

(b) Meets the level of care criteria established in 907 KAR 1:022 for nursing facility services, including nursing facility services for brain injuries; and

(c) Meets the following conditions:

1. Has a primary diagnosis that indicates an acquired brain injury with structural, nondegenerative brain damage;

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2. [as defined in Section 1 of this administrative regulation and] Is medically stable;

3. [2:] Exhibits cognitive, behavioral, motor or sensory damage with indications for rehabilitation and retraining potential; and

4. [3:] Has a rating of at least four (4) on the Rancho Los Amigos Level of Cognitive Function Scale, which is included as Appendix III to the Acquired Brain Injury Services and Reimbursement Program Manual, [incorporated by reference;]

(3) [(d)] Upon discharge from the program, an individual shall:

(a) [~~be expected to~~] Remain in a community setting with existing community resources; and

(b) [shall] Not remain in the Acquired Brain Injury Waiver Program for an indefinite period of time.

(4) [(2)] The basis of the determination for eligibility in the ABI waiver program shall be:

(a) The presenting problem;

(b) The plan of care goals;

(c) The expected benefits of the admission;

(d) The expected outcome;

(e) The initial estimated time frames for achieving the plan of care goals;

(f) The services required; and

(g) The cost-effectiveness of service delivery as an alternative to nursing facility and nursing facility brain injury services.

(5) [(3)] ABI waiver services shall not be furnished to an individual if [while] he is an inpatient of a hospital, nursing facility, or an intermediate care facility for persons with mental retardation.

(6) [(4)] The department [~~or its designated agent~~] shall make:

(a) An initial evaluation for level of care;

(b) A periodic reevaluation level of care determination, which shall be made at least once every six (6) months, and may be more frequent depending on the individual's progress [determinations]; and

(c) A determination of admission to the ABI Waiver Program.

Section 4. Recipient Participation Termination. (1) An individual with an approved plan of care who receives ABI waiver services may withdraw from the ABI Waiver Program at any time without cause.

(2) Continued coverage for an ABI Waiver Program recipient shall be terminated if the department determines that the individual does not have the potential for reentry into the community in accordance with Section 3(3) [(1)(d)] of this administrative regulation without the availability of continued ABI waiver services.

Section 5. Conditions for Agency and Service Provider Participation. (1) A participating provider agency shall meet the following requirements:

(a) A "[~~free-standing~~] case management provider" shall be a legally constituted entity in the Commonwealth of Kentucky and have documenting evidence of its operating authority, including [such as]:

1. The administrative framework of the governmental department of which it is a component;

2. A private agency shall have:

a. A charter or articles of incorporation;

b. A constitution; and

c. By-laws.

(b) [~~With the exception of a free-standing case management agency,~~] A brain injury service provider shall be an agency licensed in the Commonwealth of Kentucky in accordance with 902 KAR 20:008, except that a free-standing case management agency shall not be required to obtain a license.

(c) A participating brain injury service provider agency, including a free-standing case management agency, shall:

1. Be subject to the financial sanctions as established in 907 KAR 1:671;

2. Have written policies and procedures that comply with the conditions for participation in the Acquired Brain Injury Services and Reimbursement Program Manual; and

3. Comply with applicable federal and state statutes and regulations relating to the provision of services under the Kentucky Medicaid Program.

(2) A participating ABI waiver service provider shall meet the applicable certification requirements for providing ABI waiver services in accordance with 907 KAR 1:672, KRS 205.8477 and 42 CFR 455 Subpart B.

(3) An ABI waiver provider agency or service provider shall comply with the conditions for participation established in the Acquired Brain Injury Services and Reimbursement Program Manual.

(4) Prior to employing an individual to provide ABI waiver services, an ABI waiver provider agency shall verify that all requirements of subsections (5) and (6) of this section have been met.

(5) Professional direct service and paraprofessional staff shall:

(a) Have a high school diploma or GED;

(b) Be CPR certified;

(c) Not have a criminal record as defined in Section IV of the Acquired Brain Injury Services and Reimbursement Program Manual;

(d) Not have a history of perpetrating fraud, abuse, neglect, or exploitation;

(e) Complete six (6) hours of continuing education in brain injury annually; and

(f) Meet other requirements pertinent to the service they shall provide as specified in the Acquired Brain Injury Services and Reimbursement Program Manual.

(6) All professional direct service staff shall meet:

(a) The requirements established in subsection (5) of this section; and

(b) Licensing, certification, and degree requirements necessary to practice in the Commonwealth of Kentucky.

(7) A provider [Providers] terminated from another Medicaid Program shall not be eligible for participation in the ABI Waiver Program in accordance with 907 KAR 1:672.

Section 6. Provider Participation Termination. A provider's participation shall [may] be terminated by the provider or the department in accordance with 907 KAR 1:671.

Section 7. Covered Services. (1) Except as limited in Section 8 of this administrative regulation, the following shall be considered Medicaid covered services:

(a) Case management;

(b) Personal care service;

(c) Respite care;

(d) Companion service;

(e) Structured day program service;

(f) Prevocational service;

(g) Supported employment service;

(h) Behavior programming;

(i) Counseling and training;

(j) Occupational therapy, speech, hearing, and language service;

(k) Specialized medical equipment and supplies;

(l) Environmental modification; and

(m) Community-residential service.

(2) ABI Waiver Program services and services established in 42 USC 1396a, b, d, and n shall be available to an ABI recipient to prepare him to reside in the community without the need for continued ABI waiver services.

(3) The ABI waiver services listed in subsection (1) of this section are described in the Acquired Brain Injury Services and Reimbursement Program Manual, which is incorporated by reference.

Section 8. Limits on Coverage. (1) Respite services shall be [are] limited to no more than 168 units in a six (6) month period. An exception to this period shall [may] be granted by the department if the individual's primary caregiver's ability to provide care for the individual is compromised by:

(a) A death in the family;

(b) A serious illness; or

(c) Hospitalization.

(2) An environmental modification shall be limited to being provided to the individual's home.

Section 9. Prior Approval for an ABI waiver service. The de-

~~partment~~ ~~[department's designated agent]~~ shall prior-authorize an ABI waiver service for an individual to ensure that:

(1) The level of care criteria and ABI waiver service eligibility requirements are met in accordance with Section 3 of this administrative regulation;

(2) An ABI waiver service being provided is defined in the individual's approved plan of care;

(3) A service shall have direct or remedial benefit to prepare the recipient for reentry into the community;

(4) The ABI waiver services prevent placement of the individual in a nursing facility and prepare him to reside in the community without continued ABI waiver services;

(5) Adequate service is available to meet the ~~[needs of the]~~ individual's care needs; and

(6) The services shall not reasonably be expected to exceed the cost of the appropriate level of institutional care.

Section 10. Recipient Choice. An individual eligible to receive acquired brain injury waiver services and his legal representative shall be given a choice to:

(1) Receive home- and community-based services or nursing facility services subject to the limitations established in Section 3 of this administrative regulation; and

(2) Select a participating ABI waiver provider from whom he wishes to receive a service.

Section 11. Appeals Rights. (1) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 12. Incorporation by Reference. (1) "Acquired Brain Injury Services and Reimbursement Program Manual", Department for Medicaid Services, May 1999 Edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: May 7, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(As Amended at ARRS, July 13, 1999)**

907 KAR 3:100. Payments for acquired brain injury services.

RELATES TO: 42 CFR 441 Subpart G, 42 USC 1396a, b, d, n

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes 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 establishes the payment provisions relating to home- and community-based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services for the purpose of rehabilitation and retraining for reentry into the community with existing resources.

Section 1. Definitions. (1) ~~["Department" means the Department for Medicaid Services or its designated agent.~~

(2) "Acquired brain injury (ABI) waiver services" means home-

and community-based waiver services provided to a Medicaid eligible individual aged twenty-one (21) to sixty-five (65) who has acquired a brain injury to his central nervous system of the following nature:

(a) Injury from a physical trauma;

(b) Damage from anoxia or hypoxic episode; or

(c) Damage from an allergic condition, toxic substance or another acute medical incident.

(2) "Department" means the Department for Medicaid Services or its designated agent.

Section 2. Coverage. (1) The department shall reimburse a participating provider for an ABI waiver service to a Medicaid eligible person who meets the ABI Waiver Program requirements as established in 907 KAR 3:090.

(2) The department shall reimburse an ABI participating provider for a prior-authorized ABI waiver service, which is included in the plan of care and is medically necessary and essential for the rehabilitation and retraining of the recipient.

Section 3. Exclusions to Acquired Brain Injury Waiver Program. Under the ABI Waiver Program, the department shall not reimburse a provider for a service provided:

(1) To an individual who has a condition established in 907 KAR 3:090, Section 2; or

(2) Which has not received prior authorization as a part of the plan of care.

Section 4. Payment Amounts. (1) A participating ABI waiver service provider shall be reimbursed a fixed rate for reasonable and medically necessary services for a prior-authorized unit of service provided to the recipient.

(2) A participating ABI waiver service provider certified in accordance with 907 KAR 3:090 shall be reimbursed at the lesser of the provider's usual and customary charge or the Medicaid fixed upper payment limit per unit of service as established in Section 5 of this administrative regulation.

Section 5. Fixed Upper Payment Limits. (1) The following rates **shall be [are]** the fixed upper payment limits for ABI waiver services units of service as **established [defined]** in Section 7 of this administrative regulation:

(a) A case management unit of service provided shall be reimbursed at the maximum of \$407.50;

(b) A personal care unit of service shall be reimbursed at the maximum of five (5) dollars and twenty-two (22) cents;

(c) Respite care services shall be reimbursed at a maximum of fifteen (15) dollars per unit of service not to exceed \$150 per day;

(d) An environmental modification shall be reimbursed based on the actual cost of each modification, not to exceed a total reimbursement of \$1,000 per six (6) month period;

(e) A companion unit of service shall be reimbursed at the maximum of five (5) dollars and twenty-two (22) cents;

(f) An occupational therapy unit of service shall be reimbursed at the maximum of twenty-four (24) dollars and thirty-two (32) cents;

(g) A speech, hearing, and language unit of service shall be reimbursed at the maximum of twenty-six (26) dollars and sixty-eight (68) cents;

(h) A behavioral programming unit of service shall be reimbursed at the maximum rate of thirty-one (31) dollars and fifty-five (55) cents;

(i) A counseling and training unit of service shall be reimbursed at the maximum of twenty-two (22) dollars and thirty-nine (39) cents;

(j) A structured day program unit of service shall be reimbursed at the maximum of fifteen (15) dollars and thirteen (13) cents;

(k) Specialized medical equipment and supplies, not covered through the Medicaid Durable Medical Equipment Program, **established by 907 KAR 1:470, 907 KAR 1:472, and 907 KAR 1:474**, that are provided to the individual, shall be reimbursed on a per item basis based on a reasonable cost as negotiated by the department;

(l) A prevocational unit of service shall be reimbursed at the maximum of seventeen (17) dollars and eighteen (18) cents;

(m) A supported employment unit of service shall be reimbursed

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at the maximum of twenty-nine (29) dollars and ninety-seven (97) cents;

(n) A community-residential unit of service shall be reimbursed according to the number of hours provided as **established [defined]** in Section 7(14) of this administrative regulation as follows:

1. Level One (1) shall not exceed the maximum of fifty-four (54) dollars and eighteen (18) cents;

2. Level Two (2) shall not exceed the maximum of sixty-seven (67) dollars and seventy-two (72) cents; and

3. Level Three (3) shall not exceed:

a. The maximum of eighty-four (84) dollars and sixty-five (65) cents; and

b. 230 days. An exception to this period **shall [may]** be granted by the department for an individual **who:**

(i) Continues to meet coverage provisions of 907 KAR 3:090, Section 3; and

(ii) Is reasonably expected, by following the plan of care goals pursuant to 907 KAR 1:090, Section 3(4)(b), to reach the expected outcomes within an additional sixty (60) day period. [in extreme and difficult circumstances.]

(2) The Medicaid fixed upper payment limits shall be adjusted by the department annually for inflation using the Standard and Poor's DRI Medical Index.

Section 6. Payment Exclusions. Payment shall not include:

(1) The cost of room and board, except as a provided part of respite care in a Medicaid certified nursing facility;

(2) The cost of maintenance, upkeep, an improvement, or an environmental modification to a group home or other licensed facility;

(3) The cost of maintenance, upkeep, or an improvement to the recipient's place of residence excluding an environmental modification as established in the Acquired Brain Injury Services and Reimbursement Program Manual[~~incorporated by reference~~];

(4) The cost of a service that is not listed in the approved plan of care; or

(5) A service provided by a family member.

Section 7. Units of Service. (1) A case management unit of service shall be one (1) month;

(2) A personal care unit of service shall be fifteen (15) minutes;

(3) A respite care unit of service shall be one (1) hour;

(4) An environmental modification unit of service shall be one (1) modification;

(5) A companion unit of service shall be fifteen (15) minutes;

(6) An occupational therapy unit of service shall be fifteen (15) minutes;

(7) A speech, hearing, or language unit of service shall be fifteen (15) minutes;

(8) A behavior programming unit of service shall be fifteen (15) minutes;

(9) A counseling and training unit of service shall be fifteen (15) minutes;

(10) A structured day program unit of service shall be one (1) hour;

(11) A specialized medical equipment and supplies unit of service shall be one (1) item;

(12) A prevocational unit of service shall be one (1) hour;

(13) A supported employment unit of service shall be one (1) hour; and

(14) A community residential unit of service shall be reimbursed according to the number of hours provided as follows:

(a) Level One (1) shall consist of at least eight (8) hours of service per day;

(b) Level Two (2) shall consist of at least sixteen (16) hours of service per day;

(c) Level Three (3) shall consist of twenty-four (24) hours of service per day.

Section 8. Audit and Reporting. (1) The department shall provide for an independent audit of the ABI Waiver Program, except as HCFA may otherwise specify for a particular **waiver. [waivers; and]**

(2) The department shall maintain and make information avail-

able to the United States Department for Health and Human Services as required.

(3) A participating provider shall:

(a) Maintain fiscal and service records for a period of at least five (5) years;

(b) Provide, as requested by the department, **a copy of, and access to, each record of the ABI Waiver Program retained by the provider pursuant to:**

1. Paragraph (a) of this subsection; and

2. 907 KAR 1:672, Sections 2, 3, and 4. [information necessary for the effective functioning and administration of the ABI Waiver Program.]

(c) Upon request, **[shall]** make available service and financial records to a representative or designee of:

1. The Commonwealth of Kentucky, Cabinet for Health Services or its designated agent;

2. The United States Department for Health and Human Services, Comptroller General;

3. The Department for Health and Human Services, Health Care Financing Administration (HCFA);

4. The General Accounting Office;

5. The Commonwealth of Kentucky, Office of the Auditor of Public Accounts; or

6. The Commonwealth of Kentucky, Office of the Attorney General.

Section 9. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action regarding the Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 10. Incorporation by Reference. (1) "Acquired Brain Injury Services and Reimbursement Program Manual", Department for Medicaid Services, May 1999 Edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: May 7, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

**CABINET FOR FAMILIES AND CHILDREN
Department for Community-Based Services
Division of Policy Development
(As Amended at ARRS, July 13, 1999)**

922 KAR 5:070. Adult protective services.

RELATES TO: KRS Chapters 202A, 202B, 209.010 to 209.160, 209.990, 387.540(1), 403.715 to 403.785

STATUTORY AUTHORITY: KRS 194B.050 [194.050], 209.030(1), EO 98-731

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 209.030(1) authorizes the secretary to promulgate administrative regulations necessary for the implementation of adult protective services. This administrative regulation establishes the procedures for investigation and protection of adults who are suffering or at risk of abuse, neglect, or exploitation. [KRS 194B.050 [194.050] provides that the Secretary for the Cabinet for Families and Children shall promulgate [adopt] administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the Cabinet for Families and Children. Pursuant to [in compliance with] KRS 209.030(1) the Department for Community-Based Services is amending this administrative regulation to [has drafted**

procedures that shall enable the implementation of provisions of KRS 209.010 to 209.160 and 209.990, concerning the protection of adults who may be suffering from or at risk of abuse, neglect or exploitation; to be implemented;]

Section 1. Historical File. [Central-Office Register.] (1) A statewide historical file [central register] of adult abuse, neglect, exploitation and spouse abuse reports shall be maintained by the cabinet for use in a possible future investigation involving one (1) or more of the same parties. [administrative purposes].

(2) This information shall be obtained from the DSS-292, Adult Protective Services Investigation, herein incorporated by reference. [The purpose of this register shall be to:

(a) Gather and correlate data on incidence and characteristics of adult abuse, neglect, exploitation and spouse abuse;

(b) Correlate and cross-reference adult and child protection reports;

(c) Identify previous reports on an alleged victim;

(d) Serve as a resource for defining problem areas in adult protective services and identify training needs; and

(e) Serve as a source of information in the development of policy, planning and budgeting; and

(f) Identify a previous report on an alleged perpetrator requesting a certificate, license, registration or permit to operate a human services center as defined in 922 KAR 2:001.]

Section 2. Receiving the Report. (1) When receiving a report of suspected adult abuse, neglect, exploitation or spouse abuse the worker shall make every effort to obtain the information to comply with KRS 209.030(3) and other information that may assist in determining if the adult may be in a state of emergency and in immediate need of protective services. The worker may: [It may be necessary for the worker to:]

(a) Advise the reporting source that it may not be possible [additional information is necessary] to conduct an investigation if insufficient information is received; and [he refuses or is unable to give sufficient information to locate or identify the adult];

(b) Advise the reporting source that insufficient information may lead to the inability to locate or identify the adult needing protective services. [Contact other agencies or individuals for the purpose of securing additional information which may be relevant in conducting the investigation.];

(2) When the report is received and required information secured, the worker shall:

(a) Prepare a written intake report on the DSS-115, Suspected Abuse/Neglect, Dependency or Exploitation Reporting Form, herein incorporated by reference, [(DSS-115, see child protective services; 922 KAR 1:339)] concerning the adult alleged to be abused, neglected or exploited;

(b) [and] Submit the DSS-115 [it] to the family services office supervisor or designee, for determination of assignment for investigation; and

(c) Send a copy of the DSS-115 [shall be sent] to the appropriate law enforcement agency pursuant to [in compliance with] KRS 209.030(4) unless they are the originating reporting source.

Section 3. Adult Protective Service Investigations. (1) The Department for Community-Based Services or its designee shall conduct an investigation of a report of alleged abuse, neglect or exploitation of an adult and provide protective services, upon request. The investigation shall include contact with the alleged victim and may include contact with the alleged perpetrator and collaterals.

(2) Information obtained as a result of a protective service investigation shall be kept confidential, pursuant to the provisions of KRS 209.140. [Provisions of KRS 209.140 shall take precedence over general confidentiality statutes and are limited to protective services investigations.];

(a) Requests for written information, except for court ordered releases, shall be handled through the open records process. Court orders for records may be responded to at the local office unless the worker has reason to question or contest the order. Requests for open records made by someone other than those listed in KRS 209.140 shall be accompanied with a release of information from the alleged

victim or the alleged perpetrator.

(b) Prior to releasing verbal information, the worker shall determine the legitimacy of the individual or agency's interest in the case. If staff are in contact with persons who shall not have legal access to the records, the only information which may be shared is that which is deemed necessary to carry out their statutory responsibility to protect the client and complete the investigation. [If the reporting source or other interested parties permitted by statute request follow up information, the worker may:

1. Provide information of a general nature as to whether the investigation is complete;

2. Offer an explanation as to the type of services the department may offer in these situations; and

3. Explain the department's policy as relates to the client's right to accept or refuse services.];

(3) Guidelines for conducting investigations.

(a) The investigations of a report of adult abuse, neglect, exploitation or spouse abuse shall be initiated by the assigned family services worker within:

1. One (1) hour of receipt if the reporting source claims that the adult is in a state of emergency which presents a substantial risk of death or immediate and serious physical harm to himself or others;

2. Twenty-four (24) hours of receipt if the information indicates the adult is not in a state of emergency.];

(b) An adult protective services investigation shall include a personal interview with the alleged victim and may include face-to-face contact. In situations where violence is alleged, the worker shall take into consideration the safety of the victim and worker when deciding upon the type of contact with the victim. [In alternate care situations, the worker shall inform the administrator, operator or designee that an investigation is being conducted. The alleged victim and others shall be interviewed in private if possible. If the alleged victim has a guardian, an interview with the guardian to explain the worker's role as investigator is appropriate.];

(c) Mental and physical health records necessary to complete the investigation shall be reviewed by the worker and copies obtained, if possible, to be included in the investigative report.

(d) Police records, mental inquest, disability, probate records and legal documents may be reviewed when appropriate to the conduct of the investigation.

(e) In accordance with KRS 209.020(14), financial records including savings and checking account statements, financial eligibility and assistance records, disability or retirement income records and property valuation records, may be reviewed by the worker in cases of financial exploitation of adults. [A release of information may be used in accessing records. If the worker experiences difficulty, the office of the counsel may be consulted with supervisory approval.];

(f) It may be appropriate to take photographs of the alleged victims injuries, but pictures shall not be taken by Department for Community-Based Services staff if the alleged victim refuses permission.

(g) A written voluntary statement regarding the incident may be obtained if it is apparent that abuse or neglect has occurred and the alleged victim, witness, or alleged perpetrator is willing. The persons providing the statement shall be advised that it may be shared with law enforcement officials and they may be required to testify in court.

(h) When conducting a spouse abuse investigation, the worker shall:

1. Attempt to arrange a face-to-face interview with the alleged victim to conduct the investigation and offer protective services. [Efforts to contact the alleged victim shall be documented in the investigative report. If a spouse abuse report indicates that the alleged victim does not want to be contacted supervisory discretion shall be exercised in determining the appropriate plan of action based on the nature of the report.

2. Not disclose the location of a spouse abuse shelter.];

2. Discuss all services available including spouse abuse center services. [3. Discuss the services of the area spouse abuse shelter with the alleged victim during the investigative interview. If the alleged victim requests assistance in securing shelter in the area spouse abuse shelter, the DCBS worker shall assist in making the necessary arrangements.];

(i) Upon receipt of a report of alleged abuse, neglect or exploitation of an adult in a licensed health care facility or a facility operated

by the cabinet, and the Division of Licensing and Regulation is not the originating reporting source, the worker shall complete the DSS-284, Complaint Report, herein incorporated by reference. The original of the DSS-284 shall be mailed to the Division of Licensing and Regulation. [When conducting investigations involving a licensed health care facility, the worker shall contact, via telephone, the Division of Licensing and Regulation regional office to coordinate the investigation and shall send a DSS-284, Complaint Report, herein incorporated by reference.]

(j) When DGBS receives a report involving alleged abuse, neglect or exploitation in a CFC facility, the worker shall immediately contact, via phone, the Division of Licensing and Regulation regional office and report the incident. The phone call is followed by completing the DSS-284 and mailing the original to the Division of Licensing and Regulation. If the worker receives the initial complaint, the worker shall notify the appropriate local law enforcement agency in compliance with KRS 209.030(4)(a) using the DSS-115.]

(k) [(k)] When investigating reports of alleged abuse or neglect of an adult resulting in death, the worker shall examine the coroner's or doctor's report and if possible obtain a copy of the death certificate for the case record. The worker shall notify appropriate supervisory staff and:

1. If the findings of an investigation suggest an adult in the community died allegedly as a result of abuse or neglect, consult law enforcement for assistance in completing the investigation.

2. If the findings of an investigation suggest an adult in an alternate care facility died allegedly as a result of abuse or neglect, determine [in consultation with Licensing and Regulation;] if other residents in the facility are at risk of abuse, neglect or exploitation.

(k) [(h)] Ascertain if there are other alleged victims of abuse, neglect or exploitation in the household or facility pursuant to KRS 209.020 and report the allegation pursuant to [in compliance with] KRS 209.030 and 620.030.

Section 4. Failure to Gain Entry. If an adult, a caretaker or a facility does not consent to an investigation and refuses to allow entry, the worker shall inform them of the cabinet's statutory authority to investigate. If entry is still denied, the worker may return with law enforcement officials to gain entry. If entry is still denied, the worker shall notify departmental [DGBS] supervisory staff and determine if probable cause exists to pursue a search warrant or other legal remedy. An employee of the cabinet shall not attempt to serve a search warrant.

Section 5. Results of the Investigation. (1) The worker, as appropriate, shall address the following when evaluating [determining] the results of the investigation:

- (a) The alleged victim's account of the situation;
- (b) The alleged perpetrator's account of the situation;
- (c) The information supplied by collateral contact;
- (d) Records and documents;
- (e) The assessment information;
- (f) Previous reports involving the alleged victim or alleged perpetrator; and

(g) Other factors which influence the worker's decision to take, or refrain from taking, steps to implement protective action. [depending upon the type of report.] [(1)] The worker, as appropriate, shall address the following when determining the results of the investigation:

- (a) The alleged victim's account of the situation;
- (b) The alleged perpetrator's account of the situation;
- (c) The information supplied by collateral contact;
- (d) Records and documents;
- (e) The assessment information;
- (f) Previous reports involving the alleged victim or alleged perpetrator; and

(g) Other factors depending upon the type of report.

(2) (2) The findings of the adult protective services investigation shall be documented on the DSS-292 and a written record pursuant to KRS 209.030(4)(c) shall be maintained by the worker to include:

- (a) [(1)] The [(a)] DSS-115, Confidential Suspected [Report of] Abuse/ [Neglect, Dependency or Exploitation Reporting Form];
- (b) [(2)] The [(b)] DSS-292, Adult Protective Services Investiga-

tion;

(c) [(3)] [(e)] A narrative documenting the investigation; and

(d) [(4)] [(f)] Voluntary written statements and photographs, if available, documenting the findings of the adult services investigations.

Section 6. Opening a Case. (1) A case may be opened as a result of a protective services investigation or when an adult is identified through a general adult services assessment as being at risk of abuse, neglect or exploitation. The decision to open a case shall be based on:

(a) The voluntary request for, acceptance of, or nonrefusal of services by an adult who needs adult protection or general adult services; or

(b) The need for involuntary emergency protective services.

(2) There shall be a case plan developed with the client and appropriate others in each adult service case. Within fifteen (15) [thirty (30)] working days of the decision to open a case, the case plan is initiated with the client and submitted to the family services office supervisor for approval. A copy of the case plan shall be given to the client and appropriate others with a copy of the DSS-154, pursuant to [see Fair hearing section;] 922 KAR 1:320.

Section 7. Referrals for Criminal Prosecution. Substantiated reports of abuse, neglect or exploitation may be referred for consideration for criminal prosecution.

Section 8. Involuntary Emergency Protective Services. The need for involuntary protective services shall be assessed by the worker when an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others. If an adult lacks the capacity to consent and refuses [or refuse] to consent to receive emergency protective services, the cabinet may seek a court order authorizing the provision of these services on an emergency basis in compliance with KRS 209.100-209.130. Depending upon the adult's situation, the cabinet may:

(1) [either] Seek an ex parte order; or

(2) File a petition for an emergency protective service order [depending upon the adult's situation].

Section 9. Restraining Order or Injunctive Relief. Pursuant to [in compliance with] KRS 209.040 a court may issue a restraining order or injunctive relief upon proper application of the cabinet. Staff shall contact the office of the general counsel for advice and assistance in obtaining restraining orders or other forms of injunctive relief, if possible.

Section 10. Guardianship or Conservatorship of Disabled Persons. (1) In an attempt to provide appropriate protective services, the family services [The DGBS] worker shall assess the need for guardianship when an individual is identified who appears unable to manage personal affairs or carry out the activities of daily living.

(2) The worker may assist in protective service situations in seeking out family, friends, or other interested and qualified individuals who are willing to become guardians.

(3) The family services worker, if he meets the qualification of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c), may be appointed by the court, as a member of the interdisciplinary team and may be required to testify during disability court proceedings, pursuant to KRS 387.540(1).

[(2)] A worker's decision to file a disability petition shall be based on the following conditions:

- (a) There is no one else willing to bring the petition;
- (b) There is an urgent and bona fide need to initiate the action;
- (c) There is assurance that filing the petition is in the best interest of the client; and

(d) The employee has discussed with and received approval of the district manager or designee.

(3) The family service worker may be appointed by the court, as a member of the interdisciplinary team and may be required to testify during disability court proceedings.]

Section 11. Involuntary Hospitalization. (1) If the worker believes a client may be in need of hospitalization for mental health reasons, the

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worker shall encourage the client to secure mental health treatment.

(2) If a client refuses and all other resources are unavailable, a worker may file a petition for involuntary hospitalization pursuant to [in compliance with] KRS Chapter 202A. Prior approval, if possible, shall be obtained from the service region administrator [district manager] or designee.

Section 12. Domestic Violence and Abuse. Staff may assist individuals in petitioning the court for an order of protection pursuant to [in compliance with] KRS 403.715 to 403.785. Reports received from law enforcement pursuant to [per] KRS 403.785(1) that do not meet the criteria of KRS Chapter 209 may be assigned for assessment and services based on supervisory discretion. Reports received from the family support worker that do not meet the criteria of KRS Chapter 209 shall be assigned for assessment.

~~Section 13. [Penalties. Any person violating KRS Chapter 209 shall be subject to penalties pursuant to KRS 209.990.]~~

~~Section 14.] Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) DSS - 115, "Confidential Suspected Abuse/Neglect, Dependency or Exploitation Reporting Form", "July, 1994".~~

~~(b) DSS - 284, "Complaint Report " Form, "October, 1996".~~

~~(c) DSS - 292, "Adult Protective Services Investigation" Form, "September, 1996".~~

~~[Section 13. Material Incorporated by Reference. (1) Forms necessary for the implementation of adult protective services shall be incorporated effective January, 1991.]~~

~~(2) This material [Material incorporated by reference] may be inspected, [and] copied, or obtained at the Department for Community-Based Services, Division of Protection and Permanency, [GFC Building, 6th Floor,] 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, [-Office hours are] 8 a.m. to 4:30 p.m.~~

DIETRA PARIS, Commissioner

VIOLA P. MILLER, Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: May 27, 1999

FILED WITH LRC: June 4, 1999 at 11 a.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(Amended After Hearing)

907 KAR 3:035. Criteria for certification for out-of-state residential services for Medicaid-eligible children under twenty-one (21).

RELATES TO: KRS 205.520, 42 CFR 431.615, 440.130, 447 Subpart B, 42 USC 1396a, 1396d, 1396s

STATUTORY AUTHORITY: KRS 194.130, 194A.050, 199.011, 199.640, 199.670, 205.520, 205.634, 1998 Ky. Acts ch. 615

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes 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 establishes uniform conditions and requirements for certification for out-of-state residential services for Medicaid-eligible children under age twenty-one (21), and for determining the availability of providers of residential care within the Commonwealth.

Section 1. Definitions. (1) "Comparable cost per child" means total payments made by the department per child to an out-of-state facility are comparable to total payments made by the department per child to an in-state facility for comparable residential care.

(2) "Comparable services" mean services provided by an in-state residential provider equal or surpass services provided by an out-of-state residential provider.

(3) "Department" means the Department for Medicaid Services or its designated agent.

(4) "Participating provider" means a provider who receives reimbursement from the Department for Medicaid Services for services provided to a Medicaid-eligible child under age twenty-one (21).

(5) "Residential care" means behavioral health services provided twenty-four (24) hours a day by a participating provider in a structured setting with an organized program of care. ["Department" means the Department for Medicaid Services or its designated agent.

(2) "Participating provider" means a provider who receives reimbursement from the Department for Medicaid Services for services provided to a Medicaid-eligible child under age twenty-one (21).

(3) "Residential care" means behavioral health services provided twenty-four (24) hours a day by a participating provider in a structured setting with an organized program of care.

(4) "Comparable services" means that an in-state residential provider's program equals or surpasses an out-of-state's residential provider's program based on measurable components of treatment.

(5) "Comparable cost per child" means total payments made by the department per child to an out-of-state facility are comparable to total payments made per child to an in-state facility for the residential episode of care.]

Section 2. Exceptions and Exclusions. [Instructions and Exceptions:] (1) With the exception of the situations specified in paragraphs (a) and (b) of this subsection, the department shall not preauthorize and reimburse an out-of-state residential care provider for Medicaid-eligible children until it is determined [the participating out-of-state provider presents documentation] that there is no [not an] in-state participating provider capable and willing to provide comparable services at a comparable cost per child. An exception may be made if:

(a) The identified in-state resource is farther away from the child's parent or guardian's residence [guardian] than a similar out-

of-state resource; or

(b) The services offered by the out-of-state resource are deemed by the department to be more appropriate for the individual child than the services offered by the in-state provider.

(2) [~~Components of treatment shall include clinical program descriptions, including specialty, if any, staff credentials, staffing model, quality improvement plan, utilization management, protocols and opportunity for family interaction, and discharge and outcome management. The physical structure and design may also be considered when determining comparable services.~~

(3) [~~Incidental acute physical health care or routine preventive care payments made by the department during the residential episode of care are excluded from the calculation of comparable cost per child.~~

(3) [(4)] Participating in-state and out-of-state providers shall meet provider qualification criteria established in 907 KAR 1:034 and 907 KAR 3:030.

Section 3. Procedures for Placement. (1) The following actions [procedures] shall occur before [be performed prior to] an out-of-state placement:

(a) The department or its designated agent shall document that there is no in-state provider with comparable services and costs capable of and willing to serve a specific child.

(b) The department or its designated agent shall obtain all necessary information, both demographic and medical, about each child who presents for review and services;

(c) The information shall include, at a minimum:

1. Child's demographics;

2. Child's parent or legal guardian's name and address;

3. Child's clinical history, placements and diagnoses;

4. Child's proposed treatment plan, including the estimated date of discharge and a proposed transition plan to the home and community; and

5. Any other pertinent information regarding the child's case, like special medical needs.

(d) [shall transmit a contact list of participating in-state providers to a participating out-of-state provider. The list shall be updated and transmitted to an out-of-state provider if the department enrolls an additional in-state provider.

(b) The out-of-state provider shall contact the department for preauthorization of services for a specific child and provide the following information:

1. Child's demographics;

2. Name and address of child's parent or legal guardian;

3. Child's clinical history and diagnosis;

4. Treatment plan, including the estimated date of discharge and a proposed transition plan to the home and community; and

5. Documentation that there is not an in-state provider with comparable services and costs, capable of and willing to serve, the specific child.

(c) A participating in-state provider shall fax, call, or otherwise transmit to the department, a weekly report of the availability of residential care, which shall be reviewed by the department prior to approval of an out-of-state placement.

(e) [(d)] The department shall create a database of participating in-state and out-of-state providers containing each participating provider's identifying information, clinical program descriptions, staff credentials, staffing models, quality improvement plan, utilization management, protocols and opportunity for family interaction, discharge and outcome management, services, costs, licensure status, and negotiated payment rates by the department [services, and costs]. The department shall utilize this database to determine comparable costs and services among providers and shall update the database not less than annually.

(2) For a child approved for out-of-state residential care, the department shall maintain records documenting diagnoses, specific treatment needs, demographics, and the specific reason for an exception, meeting the criteria in Section 2(1) of this administrative

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regulation. The department shall transmit this data to a participating provider who requests it.

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 2, 1999

FILED WITH LRC: July 2, 1999 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: Kentucky Medicaid eligible children referred for psychiatric care in an out-of-state facility. In-state and out-of-state Medicaid providers of residential care for the Early Periodic Screening, Diagnosis and Treatment 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 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: Any increased expenditures should be offset by increased revenues.

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

1. First year following implementation: In-state Medicaid providers of residential care for the Early Periodic Screening, Diagnosis and Treatment Program must track and report to the department or its designated agent census data and bed availability weekly.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Benefit expenditures are expected to be budget neutral. Any savings realized from decreasing out-of-state placements would be offset by either placement in community-based settings or in in-state residential placements.

2. Continuing costs or savings: Benefit expenditures are expected to be budget neutral.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None anticipated. (Increased reporting to be done by Peer Review Organization.)

(4) Assessment of anticipated effect on state and local revenues: Local revenues may increase through the development of local resources and services.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. No anticipated cost for implementation or enforcement of administrative 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: 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: Employment opportunities may increase because of private development of new programs and increased utilization of in-state psychiatric facilities. Services for children may be developed in their local communities and closer to their homes.

(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: Failure to implement this regulation could result in lack of development of needed services and a continued necessity for placing Kentucky children out-of-state.

(9) Identify any statute, administrative regulation or government policy that 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.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, JULY 15, 1999

GENERAL GOVERNMENT CABINET
Kentucky State Treasurer
(Amendment)

20 KAR 1:040. Unclaimed properties; claims.

RELATES TO: KRS 393.010, 393.040, 393.110, 393.140, 393.150

STATUTORY AUTHORITY: KRS 393.130, 393.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 393.130 allows the holder of unclaimed property or the Department of Unclaimed Property, Office of the Kentucky State Treasurer, to turn that property over to a claimant upon proper proof. This administrative regulation defines what proof is proper and governs how that proof shall be made. This administrative regulation also governs regulation of finders of unclaimed property. [This administrative regulation relates to the claims process for unclaimed property, which owners and heirs shall follow; and the proof necessary for authorization of a claim refund.]

Section 1. Claims for unclaimed property held in an interest-bearing demand, savings or time deposit shall be filed in writing with the holder of the unclaimed property who maintains the interest-bearing account containing the unclaimed property. Monetary claims for unclaimed property not held in an interest-bearing demand, savings or time deposit, may be filed in writing with either the department or with the holder who remitted the unclaimed property to the department. All other claims for unclaimed property shall be made in writing and filed with the department. [Claims for unclaimed property or the proceeds from the sale of unclaimed property shall be filed with the department. Upon receipt of the initial claims inquiry from a person having an interest in the property, the department shall send the required claim forms to be completed by the claimant; and request necessary documentation as proof of ownership.]

(1) Documentation to prove ownership shall consist of a driver's license or other picture identification, a document proving Social Security number; and, one (1) or more of the following:

- (a) Copy of birth certificate;
- (b) Copy of will;
- (c) Copy of probate distribution;
- (d) Copy of marriage certificate;
- (e) Copy of divorce decree;
- (f) Copy of documentation providing a connection with the reported address or business for the year cited as the "Date of Last Transaction" in the holder's report;
- (g) Copy of letters testamentary;
- (h) Copy of guardianship or trust agreement;

(i) Notarized affidavit executed by an individual other than the claimant having knowledge of, and in support of, a claim when requested information or documentation is not available;

- (j) Signature verification cards of financial institutions;
- (k) Family or church records, and personal correspondence;
- (l) Newspaper articles, including marriage announcements and birth or obituary notices;

(m) Other documentation which may be used in support of the claim include an income tax return, adoption records, court records, CD's, state dated checks, or other public or business records.

(2) In addition to items set out above, minimum requirements needed to establish ownership for various types of property shall be:

(a) Checking accounts: a check (blank or canceled) showing the account number for that bank, or a statement on that account which contains the account number;

(b) Savings account: a copy of the passbook showing the account number or correspondence referencing the account number;

(c) Safe deposit box: a copy of the safe deposit box rental receipt or correspondence referencing that rental;

(d) Wages: copies of W-2 forms, tax records or correspondence relating to that employment;

(e) Stocks or dividends: copies of a stock certificate of the business entity reported, correspondence relating to the stock certificate or

a statement from the broker showing purchase or sale of that stock;

(f) Bearer bonds and certificates of deposit: a copy of the record of purchase;

(g) Insurance: a copy of the policy, or correspondence relating to that policy by policy number;

(h) Court funds: a copy of the court decree or court order for the case that was the source of the funds. (i.e., probate, condemnation, quiet title, divorce, child support, and appearance bond);

(i) Vendor checks: copies of accounts receivable billing, invoices, bills of lading or correspondence with the holder reporting and remitting the funds that show a business relationship for each payment, or a statement that the funds are still considered to be due and owing on the account;

(j) Claims by heirs of listed owners: if the claim is based on hardship, one (1) or more of the following documents shall be required: final decree of probate; death certificate; or an affidavit of "Proof of Death and Heirship" executed by a person disinterested in the claim may be acceptable when the decedent's estate was not probated;

(k) Cashier's checks shall be claimed by the payee as the owner unless the purchaser submits sufficient documentation to prove a superior claim;

(3) Claims by finders or agents of listed owner. The claim shall be based on a notarized contract with the owner or heir of the owner. The department shall contact the owner or claimant to make sure that the owner or the claimant is aware of the full amount of unclaimed property involved. The finder or agent shall provide the department:

(a) A notarized copy of the contract showing names, current address, and Social Security number or Federal Employer Identification numbers of all parties to the contract; and

(b) A notarized affidavit from the owner or heir of the owner for the executive or power to act on his behalf. The affidavit shall also stipulate that the finder or agent has explained to the owner or claimant the state law on unclaimed properties and that any unclaimed properties due to the owner or claimant can be claimed without a fee, free and simple;

(4) Stock certificates received through safe deposit boxes or directly from a holder will be released to the rightful owner by one (1) of the following methods:

(a) Stock certificate in the owner's name;

(b) Stock certificate in the name of the department with an affidavit ready for transfer to the owner;

(c) Payment of money received for the certificate if the certificate has been redeemed by the issuer or has been sold in accordance with state law; or

(d) Obsolete stock certificates in the original owner's name will be transferred directly to the owner. If the original owner is deceased, the lawful heirs must determine disposition.]

Section 2. Upon receipt of a claim for unclaimed property which has been transferred to the department, either submitted to the department by the apparent owner or a holder seeking to recover money paid to an apparent owner, the department shall determine whether or not there is sufficient proof that the claimant is entitled to the claimed property. Proper proof shall consist of the following:

(1) Documentation to prove ownership shall consist of a driver's license or other picture identification, a document proving Social Security number; and, one (1) or more of the following as is needed to establish that the claimant is entitled to the unclaimed property:

- (a) Copy of birth certificate;
- (b) Copy of death certificate and copy of probate distribution or an order of the court appointing an administrator to an estate or a copy of an order from the court dispensing with administration or a small estate affidavit;

(c) Copy of marriage certificate;

(d) Copy of divorce decree;

(e) Signature verification cards of financial institutions;

(f) Copy of guardianship or trust agreement;

(g) In the event that the claimant can show that none of the above documentation is available or not applicable, the claimant may use other documentation in support of the claim including, but

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not limited to, the following: an income tax return, adoption records, court records, certificates of deposit, stale dated checks, public or business records, copy of documentation providing a connection with the reported address or business for the year cited as the "Date of Last Transaction" in the holder's report, newspaper articles (including marriage announcements and birth or obituary notices), family or church records, personal correspondence or a notarized affidavit executed by an individual other than the claimant having knowledge of a claim.

(2) In addition to items set out above, minimum requirements needed to establish ownership for various types of property valuing over \$400 shall be:

(a) Checking accounts: a check showing the account number for that bank, or a statement on that account which contains the account number;

(b) Savings account: a copy of the passbook showing the account number or correspondence referencing the account number;

(c) Safe deposit box: a copy of the safe deposit box rental receipt or correspondence referencing that rental;

(d) Wages: copies of W-2 forms, tax records, pay stubs or correspondence relating to that employment;

(e) Stocks or dividends: copies of a stock certificate of the business entity reported, correspondence relating to the stock certificate or a statement from the broker showing ownership of that stock;

(f) Bearer bonds. If the department holds original bonds, then a copy of the bonds or information that establishes relationship to the bonds. If the department held the original bonds but sold them pursuant to statute, then the claimant may use any evidence which establishes ownership of the bonds including copies of the bonds or lists of serial numbers and a relationship to the holder;

(g) Certificates of deposit: a copy of the certificate of deposit or a record of purchase;

(h) Insurance: a copy of the policy, or correspondence relating to that policy;

(i) Court funds: a copy of the court decree or court order for the case that was the source of the funds, (i.e., probate, condemnation, quiet title, divorce, child support, and appearance bond);

(j) Vendor checks: copies of accounts receivable billing, invoices, bills of lading or correspondence with the holder reporting and remitting the funds that show a business relationship for each payment, or a statement that the funds are still considered to be due and owing on the account;

(k) Claims by heirs of listed owners: final decree of probate, in the event of an intestate estate, an order of the court dispensing with administration or a court order appointing an administrator to the estate and a letter from the administrator of the estate allowing the release of the property from the estate;

(l) Cashier's checks shall be claimed by the payee as the owner based upon proof of identity, unless the purchaser submits sufficient documentation to prove a superior claim;

(m) For claims where ownership cannot be established by proof identified in this section the department may in its discretion accept alternative proof to establish ownership.

(3) Claims by finders or agents of listed owner. The claim shall be based on a notarized contract with the owner or heir of the owner. The department may contact the owner or claimant to verify that the owner or the claimant is aware of the full amount of unclaimed property involved. The finder or agent shall provide the department:

(a) A notarized copy of the contract showing names, current address, and Social Security number or Federal Employer Identification numbers of all parties to the contract; and

(b) A notarized affidavit from the owner or heir of the owner for the executive or power to act on his behalf. The affidavit shall also stipulate that the finder or agent has explained to the owner or claimant the law on unclaimed properties and that any unclaimed properties due to the owner or claimant can be claimed without a fee, free and simple; and

(c) Any documentation that the owner or claimant of the unclaimed property would have to exhibit in order to show proper proof of entitlement to the unclaimed property.

(4) Payment of claims shall be authorized upon review of documentation submitted by claimant and approval by three (3) [four] des-

ignated department employees. Payment shall be made:

(a) [(+)] In the name of, and mailed to, the established owner; or

(b) [(2)] To the executor, executrix, administrator, administratrix of the estate or personal representative; the court appointed guardian; or to an heir for distribution to other heirs, if any.

Section 3. Stock certificates received through safe deposit boxes or directly from a holder will be released to the rightful owner by one (1) of the following methods:

(1) Stock certificate in the owner's name;

(2) Stock certificate in the name of the department with an affidavit ready for transfer to the owner;

(3) Payment of money received for the certificate if the stock has been redeemed by the issuer or has been sold in accordance with state law; or

(4) Obsolete stock certificates in the original owner's name will be transferred directly to the owner. If the original owner is deceased, the lawful heirs must determine disposition.

Section 4. If a claim for unclaimed property is made to a holder for property which is not held in an interest bearing demand, savings or time deposit account, the holder may direct the claimant to the department for review and payment of the claim. If the holder chooses to consider the claim for payment, the holder shall, prior to paying the claim, inquire in writing to the department to determine whether there have been any other competing claims for that property. The department shall respond to the holder in writing within ten (10) business days of receipt of the inquiry indicating whether or not any other claims have been paid out of the property at issue or whether there are any competing claims pending. If there are competing claims or if other claims have been paid out of the property at issue, the holder shall not pay the claimant and the holder shall notify the claimant in writing of his right to request a hearing with the department.

Section 5. If a claimant submits a claim for unclaimed property to a holder, and the holder determines that the claimant is entitled to the property and that there have been no other competing claims paid out of the same property, then the holder may pay the claimant. If the property was not held in an interest-bearing demand, savings or time deposit, and if the property has already been turned over to the department, then the holder may be reimbursed by the department for any claim paid only if:

(1) The holder submits written confirmation from the department that the department was contacted prior to the payment of the claim to determine if there were any conflicting claims or if there were any prior paid claims on the property; and

(2) The holder submits an affidavit which identifies the proof used to determine that the claimant was entitled to the property, that proof meets the requirements of Section 2 of this administrative regulation, and attached to the affidavit are copies of the proof relied on; and

(3) The holder submits proof that payment was made to the claimant.

JOHN KENNEDY HAMILTON, Kentucky State Treasurer

ROBERT S. JONES, Assistant Attorney General

APPROVED BY AGENCY: July 12, 1999

FILED WITH LRC: July 12, 1999 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 30, 1999 at 10 a.m., prevailing local time at the offices of the Treasury, Suite 183, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by August 23, 1999, five workdays prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made with the notification of intent to attend. 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

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be heard at the public hearing or written comments on the proposed administrative regulation to: Robert S. Jones, Capitol Building, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, Phone: (502) 696-5300, fax number (502) 564-2894.

REGULATORY IMPACT ANALYSIS

Contact person: Robert S. Jones

(1) Type and number of entities affected: All holders of unclaimed property will be affected by this regulation.

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

(a) Cost of living and employment in the geographical area in which the emergency amended 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 emergency amended administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

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

1. First year following implementation: For business and entities that may hold unclaimed property, there may a slight increase in paperwork and administrative time caused by the implementation of SB 339 for the first year and all following years. SB 339 allows claimants of unclaimed property to seek such property from the holder, not just the department who was the sole entity who returned unclaimed property under the previous law.

2. Second and subsequent years: See above.

(3) Effects on the promulgating administrative body:

1. First year: Some operational costs of the department will be increased; other costs will be decreased. There will be some costs associated with the implementation of this bill and the education of the public and the holders. Although there will be decreased department costs in that we will not be handling all property claims since claimants can approach the holders in certain instances, we will have increased administrative costs in maintaining records on interest-bearing accounts and on distributions of unclaimed property by the holder. Other than implementation costs as discussed, these costs will continue throughout the life of the regulation.

(a) Direct and indirect costs or savings:

1. First year: See above.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: See above.

(b) Reporting and paperwork requirements: See above.

(4) Assessment of anticipated effect on state and local revenues: Unable to anticipate effect on state revenues. Increased compliance with remittance of unclaimed property through reporting may increase the amount of unclaimed property received by the state.

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

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

(a) Geographical area in which emergency administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: Potential slight increased costs for holder of unclaimed property, no cost associated with the general public.

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of the public's interest in their unclaimed property.

(8) Assessment of expected benefits: Expected benefits would be to return more unclaimed property to its rightful owner in a way that is more efficient.

(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:

(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: Not applicable.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The regulation applies to all holders of lost and abandoned property.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this emergency administrative regulation relate to any aspect of a local government, including any service provided by that local government? No, unless the local government is a holder of unclaimed property.

2. State; what unit, part or division of local government this administrative regulation will affect. None, unless any unit, part or division of local government is considered the holder of unclaimed property.

3. State the aspect or service of a local government to which this administrative regulation relates. None

4. Estimate the effect this emergency administrative regulation will have 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: None

Expenditures: None

GENERAL GOVERNMENT CABINET Kentucky State Treasurer (Amendment)

20 KAR 1:070. Unclaimed property; administrative hearing, appeals process.

RELATES TO: KRS Chapter 13B, 393.010, 393.160

STATUTORY AUTHORITY: KRS 393.280

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation governs the appeals and administrative hearings process when a decision regarding unclaimed property adversely affects a person and brings the current appeal process into compliance with KRS Chapter 13B. [This administrative regulation sets out the appeals and administrative hearings process when a department decision regarding unclaimed property adversely affects a person.]

Section 1. Any person adversely affected by a decision of a holder of unclaimed property regarding that property may request the department to review the holder's decision and make a determination regarding the claim. [may appeal the decision and request an administrative hearing.]

Section 2. Any claimant of unclaimed property whose claim is denied by the department may appeal the denial and request in writing an administrative hearing within thirty (30) days of the denial.

(1) Upon receipt of a written request for an administrative hearing, the department shall [immediately] set the date, time, and place of the hearing and shall forthwith notify the person by regular U.S. mail. [The date set for the hearing shall be within thirty (30) days from the date the written request was received, unless otherwise agreed by the parties.]

(2) The Treasurer may [shall] appoint a hearing officer to conduct the hearing.

(3) Administrative hearings conducted pursuant to this section will be held in accordance with KRS Chapter 13B.

(4) If the hearing is conducted by an appointed hearing officer, the hearing officer shall submit recommended findings of fact, conclusions of law and order to the Treasurer within sixty (60) days after the conclusion of the hearing. The Treasurer shall make a determination and enter a final order. If the hearing is conducted by the Treasurer, the Treasurer within sixty (60) days after the conclusion of the hearing shall enter the findings of fact, conclusions of law and final order.

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(5) Any final order issued by the Treasurer may be appealed to the Franklin Circuit Court within sixty (60) days after issuance. [The hearing officer shall make findings of fact, conclusions of law, and enter a final order.]

JOHN KENNEDY HAMILTON, Kentucky State Treasurer

ROBERT S. JONES, Assistant Attorney General

APPROVED BY AGENCY: July 12, 1999

FILED WITH LRC: July 12, 1999 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 30, 1999 at 10 a.m., prevailing local time at the offices of the Treasury, Suite 183, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by August 23, 1999, five workdays prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made with the notification of intent to attend. 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: Robert S. Jones, Capitol Building, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, Phone: (502) 696-5300, fax number (502) 564-2894.

REGULATORY IMPACT ANALYSIS

Contact person: Robert S. Jones

(1) Type and number of entities affected: All claimants of unclaimed property and in particular the department.

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

(a) Cost of living and employment in the geographical area in which the emergency amended 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 emergency amended 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: This regulation merely brings the current regulation into compliance with state law. There are no additional costs associated with this regulation.

2. Second and subsequent years: See above.

(3) Effects on the promulgating administrative body:

1. First year: This regulation merely brings the current regulation into compliance with state law. There are no additional costs associated with this regulation.

(a) Direct and indirect costs or savings:

1. First year: See above.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: See above.

(b) Reporting and paperwork requirements: See above.

(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: Department funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from the amended 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: This alternative was required to bring the current regulation into compliance with KRS Chapter 13B.

(8) Assessment of expected benefits: More fair and expedient administrative hearing process.

(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:

(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 regulation applies to all holders of lost and abandoned property.

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, what unit, part or division of local government this administrative regulation will affect. None

3. State the aspect or service of a local government to which this administrative regulation relates. None

4. Estimate the effect this administrative regulation will have 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: None

Expenditures: None

PERSONNEL CABINET (Amendment)

101 KAR 2:160. Kentucky Employee Assistance Program (KEAP).

RELATES TO: KRS 18A.025, 18A.030, 18A.110, 18A.155

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.025, 18A.030, 18A.110(5)(k), (l), 18A.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030 and KRS 18A.110 requires the Secretary [Commissioner] of Personnel to promulgate comprehensive administrative regulations consistent with KRS Chapter 18A, which govern development, operation and enforcement of programs to improve the work effectiveness of employees in the state service including health, welfare, counseling and employee relations. This administrative regulation is necessary to comply with these statutory requirements.

Section 1. Establishment of Kentucky Employee Assistance Program. [(4)] The ~~Personnel Cabinet~~ [Department of Personnel] shall establish and administer through the Division of Employee Benefits the Kentucky Employee Assistance Program (KEAP) to coordinate employee assistance programs that exist in state agencies and to supplement them with additional services. [Kentucky employee assistance program shall be available to assist employees whose agencies do not have employee assistance programs or to provide alternative services.]

Section 2. Eligibility for Services. (1) [(2)] Any employee whose job performance is or may be adversely affected by personal problems is eligible to initiate a request for confidential personal [service for himself] and family [or to receive] services from [for himself and family upon referral to] the Kentucky Employee Assistance Program.

(2) [(3)] Employees may [shall be entitled to] obtain Kentucky Employee Assistance Program services without discrimination or reprisals.

(3) [(4)] Participation of the employee in the Kentucky Employee Assistance Program shall not preclude agencies [supervisors] from taking disciplinary or corrective action as needed in dealing with job behavior or job performance problems.

[(5) Each appointing authority shall designate an employee as-

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assistance program liaison for disseminating information.]

Section 3, [2:] Referrals. (1) Supervisors may extend to an employee an offer of assistance through the Kentucky Employee Assistance Program when the employee's job behavior or job performance is unacceptable or deteriorating [inadequate].

(2) An employee's participation in services offered by the Kentucky Employee Assistance Program is voluntary and confidential.

(3) Employees shall be allowed [up] to contact KEAP [five (5) contacts] for assessment or referral on state time with the prior approval of the supervisor [to be confirmed by the employee assistance program when referred by a supervisor or on self-referral with supervisor's approval].

(4) A supervisor may direct the employee to provide written confirmation of participation from the program; however, the program shall provide confirmation only upon the employee's written consent.

(5) An employee's participation in counseling or treatment upon referral by the Kentucky Employee Assistance Program shall take place on the employee's own time or while on leave.

~~[(3) Employees shall participate in counseling or treatment on their own time, or take leave as provided by law.]~~

(6) ~~[(4)]~~ Employee involvement in Kentucky Employee Assistance Program shall remain confidential as permitted by state and federal law, unless the employee authorizes release of specific information to specifically identified persons.

(7) ~~[(5)]~~ Kentucky Employee Assistance Program services shall be free of charge to employees and their families for information, assessment and referral. The Commonwealth shall not be liable for any counseling or treatment costs incurred except as provided through health benefits.

CAROL M. PALMORE, Secretary

DANIEL F. EGBERS, General Counsel

APPROVED BY AGENCY: July 13, 1999

FILED WITH LRC: July 13, 1999 at 2 p.m.

PUBLIC HEARING: A public Hearing on this administrative regulation shall be held on August 23, 1999 at 9:30 a.m., prevailing local time in Room 508 of the Personnel Cabinet's Offices, 200 Fair Oaks Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by August 16, 1999, five workdays prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this 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: Daniel F. Egbers, General Counsel, Kentucky Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, telephone: (502) 564-4460, fax number: (502) 564-7603.

REGULATORY IMPACT ANALYSIS

Agency Contact: Daniel F. Egbers

(1) Type and number of entities affected: The proposed amendment to 101 KAR 2:160, Kentucky Employee Assistance Program (KEAP), will affect approximately 35,000 employees in the classified and unclassified services of the executive branch of state government.

(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 impact anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None anticipated.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon completion), to the extent available from the public comments received, for the:

1. First year following implementation: No significant change is

anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: No change anticipated.

(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: Recurring agency base budgets.

(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: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Most of the amendments to this administrative regulation are technical in nature and are offered to comply with changes in statutory language. The substantive changes clarify the confidentiality of the program and when it can be used.

(8) Assessment of expected benefits: Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact anticipated..

(a) State whether a detrimental effect on environmental and public health would result if not implemented: This administrative regulation does not directly impact environmental and public health.

(b) 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: This administrative regulation does not conflict with, overlap or duplicate an existing statute, administrative regulation or government policy, to our knowledge.

(a) Necessity of proposed regulation if in conflict: No conflict is seen.

(b) If in conflict, was the effort made to harmonize the proposed administrative regulation with the conflicting provisions. No conflict is seen.

(10) Any additional information or comments: The administrative regulation will also incorporate term changes adopted by the General Assembly in the 1998 Session.

(11) TIERING: Is tiering applied? Yes. This administrative regulation apply equally to all employees in the classified and unclassified services of state government in the executive branch, but not to other state employees.

PERSONNEL CABINET (Amendment)

101 KAR 3:050. Unclassified service; promotion, transfer and disciplinary actions.

RELATES TO: KRS 18A.155

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.155

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), (t) and (u) [and (v)]. KRS 18A.155 further provides that these administrative regulations shall be approved by the Governor. Nothing herein shall be construed to preclude the optional use of administrative regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e), (p), (u), and (w) [and (q)] of subsection (1) of KRS 18A.115 [18A.155] and on behalf of members of state boards and commissions who work on a full-time, salaried basis. This administrative regulation complies with and implements this statutory provi-

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sion.

Section 1. Appointment. (1) Employees appointed to positions in the unclassified service, subject to this administrative regulation, shall be required to meet the minimum requirements established for the class of position to which the appointment is made.

(2) An interim employee may serve in any interim capacity for less than nine (9) full months in any single department during any twelve (12) month period.

(3) Employees appointed to positions subject to this administrative regulation serve at the will of the appointing authority and are subject to termination without notice or cause.

Section 2. Promotion. (1) Vacant positions subject to this administrative regulation, other than interim positions, may be filled by promotion from the classified or unclassified service.

(2) If the promotion is to a position requiring approval under KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the promotion. [Vacancies may be filled by promotion whenever practicable and in the best interest of the service. Employees in the executive policy-making positions serve at the pleasure of the appointing authority.]

(2) Any career employee promoted from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the statutes (KRS 18A.113 and 18A.1132) pertaining to layoff shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to KRS 18A.130 and 18A.135.

(3) An employee's promotion to a different agency must be approved by the appointing authority and the commissioner.

Section 3. [2:] Transfer. (1) Vacant positions subject to this administrative regulation, other than interim positions, may be filled by transfer from the classified or unclassified service.

(2) If the transfer is to a position requiring approval under KRS 12.040 or 12.050, approval is required prior to the effective date of the transfer. [The movement of an employee from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility shall be deemed a transfer. An employee appointed in accordance with KRS 12.050 cannot be transferred. A transfer may be an inter-agency or intra-agency action. An appointing authority, with written notice, may transfer an employee from one (1) position to another in the unclassified service. An employee may request a transfer. The employee must meet the minimum requirements of the job class to which transferred.]

(2) An employee may be transferred between agencies to a position having the same salary range and level of responsibility, with the approval of the commissioner.

Section 4. [3:] Demotion. (1) An employee subject to this administrative regulation, other than an interim employee, may be demoted to another position subject to this administrative regulation with or without cause on a voluntary or involuntary basis. An involuntary demotion shall be done on an intra-agency basis only.

(2) If the demotion is to a position requiring approval under KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the action. [If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the appointing authority may make such a voluntary demotion. Involuntary demotions shall be intra-agency only.]

Section 5. [4:] Detail to Special Duty. (1) When the services of an employee subject to this administrative regulation, other than an interim employee, are needed in an unclassified [a] position within an [the] agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with approval of the Secretary [Commissioner] of Personnel.

(2) If the detail is to a position requiring approval under KRS 12.040 or 12.050, approval shall be obtained prior to the effective date

of the detail. [For detail to special duty the Commissioner of Personnel may waive the minimum requirements when requested by the appointing authority in writing.]

Section 6. [5:] Temporary Overlap. (1) With the prior approval of the Secretary of Personnel [commissioner], an agency may place an employee, other than an interim employee [for training purposes], in an unclassified [a] position currently occupied by another employee for a period not to exceed sixty (60) calendar days for training purposes.

(2) If the overlap is in a position requiring approval under KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the action.

Section 7. [6:] Separations. (1) Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the personnel action [advice] effecting the separation and shall be filed in the employee's service record in the agency and the Personnel Cabinet [department]. Failure of an employee to give fourteen (14) calendar days notice of [with his] resignation without good cause may result in forfeiture of accrued annual leave.

(2) Retirement. Failure of an employee to give fourteen (14) calendar days notice of retirement may result in forfeiture of accrued annual leave.

(3) Termination. An employee subject to this administrative regulation may be terminated with or without cause.

(a) If the appointing authority elects to terminate the employee for cause, the employee shall be provided with notice in writing of the reasons for termination and of the employee's right to appeal to the Personnel Board under KRS 18A.095.

(b) If the appointing authority elects to terminate the employee without cause, this shall be stated in the written notice to the employee.

Section 8. Incorporation by References. The provisions of 101 KAR 2:095, 101 KAR 2:105, 101 KAR 2:140, 101 KAR 2:150 and 101 KAR 2:160 shall apply to the employees in the unclassified service. [If an employee is retired, he is considered as separated without prejudice.]

PAUL E. PATTON, Governor

CAROL M. PALMORE, Secretary

DANIEL F. EGBERS, General Counsel

APPROVED BY AGENCY: July 13, 1999

FILED WITH LRC: July 13, 1999 at 2 p.m.

PUBLIC HEARING: A public Hearing on this administrative regulation shall be held on August 23, 1999 at 9:30 a.m., prevailing local time in Room 508 of the Personnel Cabinet's Offices, 200 Fair Oaks Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by August 16, 1999, five workdays prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this 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: Daniel F. Egbers, General Counsel, Kentucky Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, telephone: (502) 564-4460, fax number: (502) 564-7603.

REGULATORY IMPACT ANALYSIS

Agency Contact: Daniel F. Egbers

(1) Type and number of entities affected: The proposed amendment to 101 KAR 3:050, unclassified service; promotion, transfer and disciplinary action will affect approximately 3,260 employees in the unclassified service of the executive branch of state

government.

(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 impact anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None anticipated.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon completion), to the extent available from the public comments received, for the:

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change anticipated.

(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: Recurring agency base budgets.

(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: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Most of the amendments to this administrative regulation are technical in nature and are offered to comply with changes in statutory language. The substantive amendments require unclassified employees to meet the minimum requirements for the positions to which they are appointed; permit demotion of an unclassified employee; detail to special duty within the agency, and clarify the rules with respect to notice of resignation and retirement.

(8) Assessment of expected benefits: Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. No direct impact on public health or environmental welfare is anticipated.

(a) State whether a detrimental effect on environmental and public health would result if not implemented: This administrative regulation does not directly impact environmental and public health other than as noted above.

(b) 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: This administrative regulation does not conflict with, overlap or duplicate an existing statute, administrative regulation or government policy, to our knowledge.

(a) Necessity of proposed regulation if in conflict: No conflict is seen.

(b) If in conflict, was the effort made to harmonize the proposed administrative regulation with the conflicting provisions. No conflict is seen.

(10) Any additional information or comments: The administrative regulation will also incorporate term changes adopted by the General Assembly in the 1998 Session.

(11) TIERING: Is tiering applied? Yes. Although this administrative regulation applies to all employees in the unclassified service of state government, it does not apply to employees in the classified service.

REVENUE CABINET
Department of Law
Division of Tax Policy
(Amendment)

103 KAR 30:091. Sales to farmers.

RELATES TO: KRS 139.260, 139.470, 139.480, 139.490, 139.720

STATUTORY AUTHORITY: KRS 13A.139 [Chapter—13A], 131.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13A.139 and 131.130 authorized the Revenue Cabinet to promulgate administrative regulations for the assessment, collection, refunding, administration, and enforcement of the Kentucky tax laws. This administrative regulation establishes requirements and procedures necessary for the administration of the sales and use tax exemptions that are afforded farmers. [To interpret the sales and use tax law as it relates to sales to farmers.]

Section 1. Definitions. (1) "Attachment" means an item purchased for use in connection with farm machinery primarily to improve efficiency or to diversify the function which the farm machinery is capable of performing. Included in the "attachment" category are: hydraulic systems, weights, hitches, and dual wheel assemblies. Attachments shall not include nonessential accessories (except when sold as a part of an assembled unit) such as radios, canopies, air conditioning units, cabs, deluxe seats, tool or utility boxes, and lubricators.

(2) "Farmer" shall mean a person regularly engaged in the occupation of:

(a) Tilling and cultivating the soil for the production of crops;

(b) Raising and feeding livestock or poultry the products of which ordinarily constitute food for human consumption;

(c) Producing milk for sale; and

(d) Raising and feeding llamas, alpacas, ratites, buffalo or aquatic organisms.

(3) "Farm machinery" shall have the same meaning as KRS 139.480(11).

(4) "Livestock" shall have the same meaning as KRS 139.480(4).

(5) "Repair and replacement parts" means tangible personal property used to maintain, mend or restore farm machinery that is necessary to the operation of farm machinery excluding oil, grease and hydraulic fluids. Examples of repair and replacement parts include:

(a) Batteries;

(b) Tires;

(c) Fan belts;

(d) Mufflers;

(e) Spark plugs;

(f) Miscellaneous motor repairs;

(g) Plow points;

(h) Cutting parts;

(i) V-belts;

(j) Bolts; and

(k) Springs.

(6) "Seeds and commercial fertilizer" shall have the same meaning as KRS 139.480(7). [Farm Machinery. The farm machinery exemption provided at KRS 139.480(10) applies to motor or animal-drawn or operated farm machinery and implements, including attachments which are necessary to the operation of such machinery and implements. To qualify for exemption, the property must be used in the occupation of tilling the soil for the production of crops (including timber, flowers, fruits, shrubs, etc.) as a business or in the occupation of raising and feeding livestock or poultry or of producing milk, eggs, wool, etc., for sale. The exclusion is not limited to items commonly referred to as "farm machinery" but includes all machinery directly used in the activities listed above.]

Section 2. On-farm Facilities Exemption. (1) A farmer or a contractor under contract with the farmer may purchase, without payment of Kentucky sales and use tax, tangible personal property that

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will be incorporated into the initial construction of:

(a) On-farm grain or soybean facilities exempt under KRS 139.480(14);

(b) On-farm ratite raising facilities exempt under KRS 139.480(15);

(c) On-farm llama or alpaca raising facilities exempt under KRS 139.480(24);

(d) On-farm buffalo raising facilities exempt under KRS 139.480(26); and

(e) On-farm aquaculture facilities exempt under KRS 139.480(30).

(2) Examples of items that may qualify for exemption under the on-farm facilities exemption:

(a) Brooding systems;

(b) Curtain systems;

(c) Incubation systems;

(d) Egg processing systems;

(e) Stalls and stanchions;

(f) Drainage tiles;

(g) Fencing materials, and gates;

(h) Corrals, chutes and headgates;

(i) Waterers and feeding systems;

(j) Ventilation and alarm systems;

(k) Silo unloaders (augers); and

(l) Grain and hay elevators.

(3) Categories of items that do not qualify for the on-farm facilities exemption include:

(a) Greenhouse bows, columns, sidewalls, ventilation curtains, plastic used for the outer shell, plastic used for holding water and float trays;

(b) Tangible personal property used to construct machinery sheds, tobacco barns, or horse barns;

(c) Tangible personal property used to construct office facilities; and

(d) Construction equipment or consumable supplies purchased or rented/leased by a contractor to fulfill the terms of a construction contract.

Section 3. Farm Machinery. (1) A farmer may purchase without payment of the Kentucky sales and use tax farm machinery, attachments and repair/replacement parts therefor by executing Revenue Form 51A158, Farm Exemption Certificate. Attachments to farm machinery are tax-exempt both upon original purchase and when replaced.

(2) [Exempt Items.] Examples of items which qualify for exemption in addition to the more commonly known items of "farm machinery" include [are]:

(a) Irrigation systems;

(b) Tobacco curing equipment;

(c) Farm wagons;

(d) Portable insecticide sprayers;

(e) Chain saws;

(f) Mechanical cleaning equipment;

(g) Mechanical shop equipment;

(h) Mechanical posthole diggers;

(i) Mechanical post drivers;

(j) [silo unloaders (augers), grain and hay elevators,] Milking machines;

(k) Automatic washers;

(l) Mechanical bulk tanks;

(m) Cooling units;

(n) Brooders;

(o) Incubators;

(p) Automatic egg gathering systems;

(q) Egg processing equipment[; automatic feeding equipment, automatic waterers].

(r) Tobacco transplant clipping systems;

(s) Tobacco greenhouse heating and cooling systems; and

(t) Tobacco transplant seeding systems.

Section 4. [3.] Taxable Items. There is no exemption for items in the following categories: [The following categories of items are excluded from the meaning of the term "farm machinery" and are subject

to tax:]

(1) Containers [and storage facilities] such as milk cans, wash tanks, [watering tanks,] egg baskets, [nonmechanical silos, nonmechanical feeders,] and oil and gas storage tanks;

(2) Hand tools, and wholly hand-operated equipment such as wheelbarrows, hoes, rakes, pitchforks, shovels, brooms, wrenches, pliers, and grease guns;

(3) Machinery, equipment and attachments which are used by persons engaged in a commercial business such as spraying chemical fertilizer on crops by aircraft or other means, custom baling, and custom seeding. [Attachments (accessories) not essential to the operation of the machinery itself (except when sold as a part of an assembled unit) such as cigarette lighters, radios, canopies, air conditioning units, cabs, deluxe seats, tool or utility boxes, and lubricators.]

(4) Miscellaneous farm equipment and supplies such as tobacco sticks, tobacco canvas, milk strainers, lawn and garden equipment, weed eaters, oils and greases, and coke;

(5) Automobiles, trucks, trailers of all types, and truck-trailer combinations; and

(6) Miscellaneous animal supplies including medicine, animal health products, syringes, needles, elastrator bands or rings, wormers and vitamins. [Items which are incorporated into real property such as stalls, stanchions, drainage tile, fencing materials, and building materials excepting materials incorporated into the construction, renovation, or repair of:

(a) On-farm grain or soybean facilities;

(b) On-farm chicken-raising facilities.

Section 4. Attachments; Repair and Replacement Parts. (1) "Attachments" to farm machinery or farm implements are tax exempt both upon original purchase and when replaced. The term "attachments" refers to items purchased for use in connection with farm machinery or farm implements primarily to improve efficiency or to diversify the function which the machinery or implements are capable of performing. Included in the "attachment" category are: hydraulic systems; weights, hitches, dual wheel assemblies, other items necessary to the operation of machinery or implements.

(2) "Repair and replacement parts" purchased for use on farm machinery which are necessary to the operation of such machinery are exempt from tax. Included in the "repair and replacement part" category are: batteries, tires, fan belts, mufflers, spark plugs, miscellaneous motor repairs, plow points, cutting parts, v-belts, bolts, springs, etc.]

Section 5. Certificates of Exemption. (1) Revenue Form 51A159, "On-farm Facilities Certificate of Exemption for Materials, Machinery and Equipment" shall be executed only for those purchases of tangible personal property that will be incorporated into the initial construction of on-farm facilities specified in Section 2 of this administrative regulation.

(a) The certificate shall be executed:

1. By a farmer who purchases the tangible personal property directly from the retailer; or

2. Jointly by a farmer and the contractor who is under contract with the farmer and purchases the property to fulfill the terms of the construction contract.

(b) The certificate may not be used for subsequent purchases of materials to be incorporated into the repair or renovation of an existing on-farm facility.

(c) The use of the certificate by the purchaser constitutes the issuance of a blanket certificate and will remain valid until the completion of the construction project.

(2) Revenue Form 51A158, "Farm Exemption Certificate".

(a) This certificate shall be executed by a farmer to purchase the following tangible personal property without payment of the sales and use tax if the property will be used exclusively for the exempt purposes provided for under KRS 139.480:

1. Baling twine and wire used for the baling of hay and straw;

2. Farm chemicals including insecticides, fungicides, herbicides, rodenticides to be used in the production of crops as a business or in the raising and feeding of livestock, poultry, ratites, llamas, alpacas, buffalo, or aquatic organisms;

3. Farm machinery, attachments and repair/replacement parts

therefor:

4. Farm work stock;
5. Feed and feed additives used in raising livestock, poultry, ratites, llamas, alpacas, buffalo, or aquatic organisms;
6. Gasoline, special fuels, natural gas or liquefied petroleum gas used to operate farm machinery or on-farm grain/soybean facility and poultry, livestock, ratite, llama, alpaca, or aquaculture facilities;
7. Livestock or poultry;
8. Ratites, llamas, alpacas, buffalo, or aquatic organisms;
9. Machinery, equipment attachments and repair/replacement parts therefor to be incorporated into an existing on-farm grain/soybean facility and poultry, livestock, ratite, llama, alpaca, buffalo or aquaculture facilities;
10. Materials to be incorporated into the renovation or repair of an existing on-farm grain/soybean facility and poultry, livestock, ratite, llama, alpaca, buffalo or aquaculture facilities;
11. Seeds and commercial fertilizer; and
12. Water used in the production of crops as a business or in the raising of livestock/poultry, ratites, llamas, alpacas, buffalo aquatic organisms and dairy cattle.

(b) This certificate may not be used to purchase tangible personal property that will be incorporated into the initial construction of on-farm facilities exempt under KRS 139.480.

(c) The use of this certificate by the purchaser constitutes the issuance of a blanket certificate and will remain valid until the purchaser notifies the seller in writing that it is no longer valid. [Exemption-Certificates. The sales and use tax law sets forth various types of tangible personal property which may be purchased tax-exempt by persons engaged in farming. The exemptions may be found at KRS 139.470(2) and KRS 139.480(4), (5), (6), (7), (8), (10), (13), (14) and (15). The appropriate exemption certificates which a vendor must have on file executed by a farmer to substantiate the nontaxable status of such sales are:

- (1) A properly executed Farm Machinery Exemption Certificate, Revenue Form 51A148 (3-88), for farm machinery and attachments;
- (2) A properly executed Agricultural Certificate of Exemption, Revenue Form 51A106 (4-86), for seed, feed, fertilizer, repair and replacement parts for farm machinery, nonreturnable containers, gasoline, special fuels, liquefied petroleum gas and repair and replacement parts for machinery and equipment which are part of an on-farm grain or soybean facility;
- (3) A properly executed Certificate of Exemption for On-Farm Grain or Soybean Facilities, Revenue Form 51A148-S1 (3-88), for machinery, equipment, attachments and any materials incorporated into the construction, renovation or repair of on-farm grain or soybean facilities; and
- (4) A properly executed Certificate of Exemption for On-Farm Chicken Raising Facilities, Revenue Form 51A153 (6-90), for equipment, machinery, attachments, repair and replacement parts and any materials incorporated into the construction, renovation or repair of on-farm facilities used exclusively for raising chickens.]

Section 6. Vendor Responsibility. (1) A vendor shall be relieved of the duty of collecting and paying the sales or use tax if he:

- (a) Accepts a copy of the appropriate certificate of exemption in good faith; and
 - (b) Retains the copy in his records pursuant to KRS 139.720(2).
- (2) A vendor shall:
- (a) Include sales for which a certificate has been accepted in Line 1, Gross Receipts, of Revenue Form 51A102, "Sales and Use Tax Return"; and
 - (b) Take a corresponding deduction on Line 3, Sales for which agricultural certificates received. [The exemption certificates specified in Section 5 of this administrative regulation are hereby incorporated by reference and may be obtained without charge from the Revenue Cabinet, Frankfort, Kentucky 40601. The certificates may be inspected and copied at the Frankfort office of the Revenue Cabinet located on the fourth floor of the Capitol Annex Building or the Taxpayer Service Centers listed below between the hours of 8 a.m. and 4:30 p.m. (local time):

Revenue Cabinet Taxpayer Service Centers

Ashland
P.O. Box 687
1422 Winchester Avenue
Ashland, KY 41105-0687
(606) 329-9982

Bowling Green
P.O. Box 2040
1502 Westen Avenue
Bowling Green, KY 42101
(502) 843-5470

Gorbin
1707 Eighteenth Street
Falls Road Plaza, Suite 5
Gorbin, KY 40701
(606) 528-3322

Hazard
233 Birch Street
P.O. Box 419
Hazard, KY 40701
(606) 439-2388

Hopkinsville
Hammond Plaza, P.O. Box 695
Hopkinsville, KY 42240
(502) 887-2521

Lexington
301 East Main Street
Suite 500
Lexington, KY 40507
(606) 233-3837

Louisville
620 South Third Street, Suite 102
Louisville, KY 40202-2402
(502) 588-4512

Northern Kentucky
Kentucky Executive Building
Room 210
2055 Dixie Highway
Fort Mitchell, KY 41011
(606) 292-6603

Owensboro
311 West Second Street
P.O. Box 628
Owensboro, KY 42301
(502) 686-3301

Paducah
555 Jefferson Street
P.O. Box 2336
Paducah, KY 42002-2336
(502) 444-8148

Pikeville
1279 North Mayo Trail
Pikeville, KY 41501
(606) 437-4075]

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Farm Exemption Certificate", Form 51A158 (6-98);
 - (b) "On-farm Facilities Certificate of Exemption for Materials, Equipment and Machinery, Form 51A159 (6-98); and
 - (c) "Kentucky Sales and Use Tax Return, Form 51A102 (6-99).
- (2) This material may be inspected, copied, or obtained at Ken-

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tucky Revenue Cabinet, 200 Fair Oaks, Frankfort, Kentucky 40620, Monday through Friday, 8 a.m. to 4:30 p.m., or at the cabinet's web site: www.state.ky.us/agencies/revenue/revhome.htm. [The examples of taxable and nontaxable items contained in this administrative regulation are for illustrative purposes only and are not intended to be all inclusive.]

DANA BYNUM MAYTON, Commissioner

SARA JANE SCHAAF, Secretary

APPROVED BY AGENCY: June 21, 1999

FILED WITH LRC: June 23, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 26, 1999, at 11 a.m. at Training Room A, 200 Fair Oaks Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 19, 1999, 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 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: Charlotte T. Quarles, Director, Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40601, Phone: (502) 564-6843, Ext. 4442, FAX: (502) 564-9565.

REGULATORY IMPACT ANALYSIS

Contact Person: Charlotte Quarles

(1) Type and number of entities affected: Any person regularly engaged in farming and persons selling tangible personal property to farmers may be affected by this administrative regulation.

(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 in 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 regulation will have no effect on the cost of doing business in 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: This administrative regulation establishes requirements and procedures necessary for the administration of the sales and use tax exemptions that are afforded farmers. The compliance, reporting and paperwork requirements will not change in the first year following implementation. Costs will be neither increased nor decreased.

2. Second and subsequent years: The compliance, reporting, and paperwork requirements have not changed for the second and subsequent years. Costs will be neither increased nor decreased.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs and savings:

1. First year: The administrative regulation establishes the requirements and procedures necessary for the administration of the sales and use tax exemptions that are afforded farmers. There will be slight decrease in printing costs due to a decrease in the number of forms required by the farmer to claim exemption from the sales and use tax.

2. Continuing costs or savings: Additional savings will be minimal after the first year of implementation.

3. Additional factors increasing or decreasing costs: There are no additional factors, which either increase or decrease costs.

(b) Reporting and paperwork requirements: Paperwork requirements will be decreased due to the decrease in exemption certifi-

cates.

(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 alternative was rejected: No alternative suggestions 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.

(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 governmental 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 taxpayers that qualify for agricultural exemptions.

FINANCE AND ADMINISTRATION CABINET Office of Financial Management and Economic Analysis (Amendment)

200 KAR 14:011. Qualified investments.

RELATES TO: KRS 42.500(9) to (14), 42.520, 42.525

STATUTORY AUTHORITY: KRS 42.500(10), 42.520(2), 42.525

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.500, 42.520, and 42.525 provide that the State Investment Commission shall implement the state's investment program by administrative regulation. This administrative regulation establishes the standards that govern the Commonwealth's investment and cash management programs.

Section 1. Definitions. For purposes of this administrative regulation:

(1) "Commission" means the State Investment Commission; and

(2) "Hedge" means a position in a financial instrument taken to minimize or eliminate the risk associated with an existing instrument or portfolio of instruments.

(3) "Interest rate swaps" means an agreement governed by an International Swap Dealers Association master contract between two (2) parties to exchange, or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate.

(4) "Nationally recognized rating agency" means Moody's Investors Service, Standard and Poor's, or Fitch IBCA.

(5) "Office" means the Office of Financial Management and Economic Analysis.

(6) "Options" means a contract that provides the right, but not the obligation, to buy or sell a specific amount of a specific security within a predetermined time period.

(7) "Pools" means the investment pools that are managed by the Office of Financial Management and Economic Analysis under the guidance of the State Investment Commission.

Section 2. The commission shall:

(1) Not invest state funds in an institution or instrument that it deems unsafe and a threat to the security of state funds; and

(2) Maintain adequate liquidity to meet the cash needs of [to] the

state.

(3)(a) Within the limits established by the provisions of this administrative regulation, the commission shall invest in securities that maximize yield or return to the Commonwealth.

(b) The use of leverage, or posting of margin, to increase the yield of a pool shall be expressly prohibited.

Section 3. Interest earned on the cash balances shall be calculated daily on an accrual basis.

Section 4. Investment Criteria. (1) The criteria to determine the amount of funds per investment instrument shall be the:

- (a) Liquidity needs of the state in aggregate as budgeted; and
- (b) Rates available per instrument; and
- (c) Safety of principal and interest.

(2) Investment instruments shall qualify if they are specified by:

- (a) KRS 42.500; and

(b) The provisions of this administrative regulation, 200 KAR 14:081, and 200 KAR 14:091.

(3) Unless specifically authorized by KRS 41.610, the commission shall not invest state funds in an institution or instrument:

(a) For a term of one (1) year or less at a yield less than the yield available on a U.S. Treasury Bill of similar maturity; and

(b) For a term of more than one (1) year, at a yield less than the yield available on U.S. Treasury Notes of similar maturity.

Section 5. Investment Policies. The maturity of investments made by the commission shall be subject to the liquidity needs of the Commonwealth as determined by the commission with the following limits:

(1) U.S. Treasury and agency securities with a maturity less than seven (7) years: no limit, with the exception of U.S. Treasury Strips which shall be limited to twenty (20) percent of each pool.

(2) U.S. agency mortgage backed securities with a final maturity of ten (10) years and a weighted average life of four (4) years or less at projected prepayment speed assumptions.

(3) Collateralized mortgage obligations shall be limited to a weighted average life of four (4) years or less at projected prepayment speed assumptions.

(4) U.S. agency mortgage backed securities and collateralized mortgage obligations shall be limited to twenty-five (25) percent of total pool assets in aggregate.

(5) Asset-backed securities shall be limited to:

(a) Those rated in the highest category by a nationally recognized rating agency with an expected life of four (4) years or less, [and a legal final of less than ten (10) years; and]

(b) Twenty (20) percent of total pool assets.

(6) U.S. dollar denominated corporate and Yankee securities issued by foreign and domestic issuers, rated A or higher by a nationally recognized rating agency with a maturity not longer than five (5) years and limited to not more than twenty-five (25) percent of an individual pool and twenty-five (25) million dollars per issuer, inclusive of commercial paper, bankers' acceptances, and certificates of deposit.

(7) U.S. dollar denominated sovereign debt shall be rated A1 or higher by a nationally recognized rating agency with a maturity not to exceed five (5) years and limited to not more than five (5) percent of any individual portfolio and twenty-five (25) [\$10] million dollars per issuer.

(8) Money market securities shall be limited to twenty (20) percent of total pool assets and twenty-five (25) million dollars per issuer. Money market securities shall include: commercial paper, certificates of deposit, Eurodollars and time deposits rated in the highest short-term rating with assets in excess of one (1) billion dollars and bankers' acceptances rated A or higher. Maturities shall be limited to six (6) months for bankers' acceptances and nine (9) months for all other money market securities.

(9) Repurchase and reverse repurchase agreements collateralized at 102 percent (marked to market daily) with treasuries, agencies, and collateralized mortgage obligations that meet the requirements established by subsection (4) of this section, with a maximum maturity of one (1) year if executed with approved broker-dealers as provided by Section 9 of this administrative regulation and a maximum of three (3) years for the Kentucky Bank Repurchase Program participants.

Section 6. Risk Management. The pools may utilize interest rate swaps, over-the-counter and exchange traded U.S. Treasury contracts and options to hedge the portfolio against fluctuations due to changes in interest rates. The pools shall use these securities for bona fide hedging purposes.

Section 8. Pools and Operating Procedures. (1)(a) Except for the Budget Reserve Trust Fund, state funds held in accounts the interest of which accrues to the General Fund shall be placed in the short-term pool or the intermediate pool.

(b) The short-term pool shall not purchase a security with a duration exceeding one (1) year.

(c) The duration of the short-term pool shall not exceed ninety (90) days.

(2)(a) Except as provided by paragraph (b) of this subsection, state funds held in agency or university accounts the interest of which accrues to the agency or university shall be placed in the intermediate pool.

(b) These funds may be placed in the short-term pool, if the commission determines that the liquidity needs of an agency require shorter term investment.

(c) The duration of the intermediate pool shall not exceed three (3) years.

(3)(a) Bond proceeds from state issued bonds shall be placed in the bond proceeds pool.

(b) The bond proceeds pool shall consist of U.S. Treasury and agencies' notes and repurchase agreements.

(4)(a) The portion of the Budget Reserve Trust Fund for the disposition of which the approval of the General Assembly is required, and agency funds which the commission and agency determine need not be expended for a period of two (2) years shall be placed in the long-term pool.

(b) The duration of the long-term pool shall not exceed four and one-half (4.5) years.

(5) No more than ten (10) percent of a pool's assets shall be invested in variable rate instruments.

(6) A pool shall be assessed an annualized charge, calculated and deducted daily, of five basis points (.0005) to defray operating expenses associated with the pool.

Section 9. Approved Broker-dealers. (1) The commission shall approve broker-dealers.

(1) A broker-dealer who was approved by the commission prior to the effective date of this administrative regulation shall be considered an approved broker-dealer.

(2) Except as provided by subsection (1) of this section, on and after the effective date of this administrative regulation, a broker-dealer shall be approved by the commission as an approved broker-dealer if [it] the broker-dealer has met the requirements established by subsection (3), (4), or (5) of this section as applicable.

(3) An approved broker-dealer shall be a broker dealer who:

(a) Is a primary dealer of the Federal Reserve rated A1-P1 by Moody's Investors Service, or Standard and Poor's; or

(b) Maintains an office in Kentucky, and has twenty-five (25) million dollars in excess net capital; or whose trades are guaranteed by a primary dealer of the Federal Reserve who is rated A1-P1 by Standard and Poor's or Moody's Investors Service; or

(c) Has a minimum of \$100 million in excess net capital. [Whose trades are guaranteed by a primary dealer of the Federal Reserve who is rated A1-P1 by Standard and Poor's or Moody's Investors Service.]

(4) An approved broker-dealer for repurchase agreements shall:

(a) Be a primary dealer of the Federal Reserve;

(b) Be rated A1-P1 by Standard and Poor's or Moody's Investors Service;

(c) Have transaction amounts limited to his excess net capital; and

(d) Have executed the:

1. Public Securities Association Master Repurchase Agreement prior to entering into a repurchase transaction; and

2. Appropriate Custodial undertaking in Connection with Master Repurchase Agreement.

(5) An approved broker-dealer for hedge vehicles (swaps and options), shall:

- (a) Be a primary dealer of the Federal Reserve with at least \$100 million in excess net capital;
- (b) Be rated A1-P1 by Standard and Poor's or Moody's Investors Service;
- (c) Have transaction amounts limited to his excess net capital; and
- (d) Have executed the:
 1. International Swap Dealers' Association Agreement prior to the implementation of a swap; and
 2. Commonwealth of Kentucky Master Agreement, Over-the-counter Option Transactions - U.S. Treasury Securities, prior to the implementation of an over the counter option transaction.
- (6)(a) Within 180 days of the end of each broker-dealer's fiscal year, a broker-dealer shall submit a copy of the broker-dealer's audited financial statements for that fiscal year.
- (b) A broker-dealer who wishes to be approved by the commission as an approved broker-dealer shall submit a copy of the broker-dealer's current audited financial statements

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

- (a) "Commonwealth of Kentucky, Bond Proceeds Pool, Prospectus, (12/97)";
 - (b) "Commonwealth of Kentucky, Short-term Pool, Prospectus, (12/97)";
 - (c) "Commonwealth of Kentucky, Intermediate-term Pool, Prospectus, (12/97)";
 - (d) "Commonwealth of Kentucky, Long-term Pool, Prospectus, (12/97)";
 - (e) "Public Securities Association Master Repurchase Agreement (12/97)";
 - (f) "Custodial Undertaking in Connection with Master Repurchase Agreement, Bank of New York (12/97);
 - (g) "Custodial Undertaking in Connection with Master Repurchase Agreement, Chase Manhattan (12/97)";
 - (h) "International Swap Dealers' Association Agreement (12/97)"; and
 - (i) "Commonwealth of Kentucky Master Agreement, Over-the-counter Option Transactions - U.S. Treasury Securities (12/97)".
- (2) This material may be inspected, copied, or obtained at State Investment Commission, Suite 261, Capitol Annex, Frankfort, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. MCCARTY, Secretary

KAREN POWELL, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 14, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 25, 1999 at 10 a.m. in Room 264 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 18, 1999, five days prior to the hearing, of their intent to attend. If no notification 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 regulations. Send written notification of intent to be heard at the public hearing or written comments on the proposed administration regulation to the contact person.

CONTACT PERSON: F. Thomas Howard, Deputy Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601, (502) 564-2924, Fax (502) 564-7416.

REGULATORY IMPACT ANALYSIS

Contact: F. Thomas Howard

(1) Type and number of entities affected: This administrative regulation affects the State Investment Commission and the Finance and Administration Cabinet in the executive branch.

(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: There is no anticipated cost or savings on the cost of living and employment in the geographical area in which the administrative regulation will be implemented.

(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 poses no anticipated cost on business in the geographical area in which it will be implemented.

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

1. First year following implementation: There are no compliance, reporting, or paperwork requirements associated with this administrative regulation nor will there be any effect upon competition.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Savings will result from increased investment income on the Commonwealth's assets.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: No other factors are known at this time.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No impact is expected on local revenues. State investment income revenue is expected to be enhanced.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No funds are anticipated to be required for implementation and enforcement of the administrative regulation. If funds are required, the source would be the 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:

(a) Geographical area in which administrative regulation will be implemented: No impact is expected.

(b) Kentucky: No impact is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other methods were considered.

(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 impact is expected.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No impact would result.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, rule, and administrative regulation or government policy that may be in conflict, overlapping, or duplication: There are no known statutes, administrative regulations or government policies which overlap or conflict with this administrative regulation.

(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 regulation only applies to one entity, the State Investment Commission. The goals and guidelines for the use of financial agreements are uniformly applied to this entity.

FINANCE AND ADMINISTRATION CABINET Office of Financial Management and Economic Analysis (Amendment)

200 KAR 14:081. Repurchase agreement.

RELATES TO: KRS 42.500(9) to (14), 42.520, 42.525

STATUTORY AUTHORITY: KRS 42.500(10), 42.520(2), 42.525

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.525 provides that the State Investment Commission shall prescribe standards for the operation of the state's investment program. This administrative regulation establishes the general standards which shall apply to the employment of repurchase agreements as investment vehicles with eligible financial institutions.

Section 1. Definitions. For purposes of this administrative regulation:

- (1) "Commission" means the State Investment Commission;
- (2) "Eligible financial institution" means:
 - (a) A commercial bank, or savings and loan association:
 - 1. Chartered to do business in Kentucky by the Commonwealth of Kentucky, or an agency of the United States government; and
 - 2. Maintains an office in Kentucky; and
 - (b) A broker-dealer approved pursuant to the provisions of Section 9 of 200 KAR 14:011.
- (3) "Office" means the Office of Financial Management and Economic Analysis;
- (4) "Repurchase agreement" or "reverse repurchase agreement" means an actual, conditional purchase or sale of securities of the United States Treasury, an agency, instrumentality, or corporation of the United States, or another security authorized for investment pursuant to KRS 42.500(9), with an agreement to resell or repurchase the securities to their original owner on a specific date in the future.

Section 2. Minimum Interest Rates. Except as provided by KRS 41.610, the commission shall not invest public funds in a repurchase agreement with a yield less than could be received on a directly purchased United States Treasury security of a comparable maturity.

Section 3. Reporting Requirements for Eligible Investment Institutions. The commission shall inform eligible financial institutions of the reporting requirements for the investment of state funds in eligible financial institutions established by this section.

- (1) An eligible financial institution shall:
 - (a) Submit a copy of its quarterly financial reports as furnished to Department of Financial Institutions, including all accompanying schedules, to the commission within thirty (30) days from the end of each quarter;
 - (b) Complete and sign the "Public Securities Association Master Repurchase Agreement".
- (2) [For] An approved broker-dealer shall:
 - (a) Submit a copy of its annual audited financial statements and copies of quarterly financial statements, as published, to the commission;
 - (b) Complete and sign the "Public Securities Association Master Repurchase Agreement".

Section 4. Eligible Securities. Investment securities authorized for investment pursuant to KRS 42.500(9) shall be considered eligible securities for repurchase agreements. ~~[The following shall be considered eligible securities for repurchase agreements: an investment security authorized for investment pursuant to KRS 42.500(9);]~~

Section 5. Sufficiency of Securities Purchased. (1) The securities purchased shall have a market value, including accrued interest, of not less than 102 percent of the face value of the repurchase agreement.

(2) The state's general depository banking contract shall require the general depository to review the sufficiency of collateral on all repurchase agreements except those subject to a triparty agreement. This review shall occur at least every seven (7) calendar days with periodic reviews made by the office.

(3) The commission shall demand additional securities to be delivered immediately, if market conditions cause the value of the securities purchased to drop below 102 percent of the face value of the repurchase agreement.

Section 6. Status of Parties. (1) The commission and the eligible financial institutions authorized to enter into repurchase agreements shall be considered principals in all repurchase agreements and shall not be considered to be acting as agents for third parties.

(2) All contractual obligations shall apply to and be binding on the

commission and the specific eligible financial institution with which the repurchase agreement is initially negotiated and settled.

Section 7. Default. (1)(a) If an eligible financial institution with which the commission has entered into a repurchase agreement defaults, or is determined by the commission to be in danger of default, the commission shall set off claims and liquidate property held in respect to the repurchase agreement against obligations owing to the eligible financial institution under other repurchase agreements.

(b) Payments, deliveries, and other transfers made under a repurchase agreement shall be deemed to have been made in consideration of payments, deliveries, and other transfers made under any other repurchase agreement by the eligible financial institution.

(c) The obligation to make payments, deliveries and other transfers under a repurchase agreement may be applied against the obligation to make payments, deliveries and other transfers under any other repurchase agreements of the eligible financial institution and netted.

(2)(a) From the proceeds of liquidated property, the commission shall pay itself the full principal and accrued interest due as of the date of liquidation.

(b) Remaining cash balances shall be forwarded to the financial institution with which the repurchase agreement was originally executed.

Section 8. Kentucky Bank Repurchase Program. (1) Repurchase agreements with commercial banks and savings and loan associations chartered by the Commonwealth of Kentucky or by the U.S. government with offices located in Kentucky shall be placed pursuant to the following:

- (a) A loan to deposit ratio equal to or greater than seventy (70) ~~[seven-(7)]~~ percent.
 - (b) A nonperforming loan to capital ratio of equal to or less than twenty-five (25) percent.
 - (c) A capital to assets ratio equal to or greater than seven (7) percent; and
 - (d) A return on assets ratio greater than zero.
- (2) Repurchase agreements with maturities equal to or greater than 365 days with commercial banks and savings and loan associations chartered by the Commonwealth of Kentucky or by the U.S. government with offices located in Kentucky shall be limited to \$5,000,000 per institution.
- (3) The office shall review the financial ratios listed quarterly to determine eligibility of institutions. Existing repurchase agreements with institutions which fail to meet the minimum criteria for two (2) consecutive quarters shall be subject to call at par value by the commission. Repurchase agreements shall be placed according to:

- (a) Availability of funds;
 - (b) Demand for funds by the institutions; and
 - (c) Highest loan to deposit ratio of eligible institutions.
- (4)(a) A repurchase agreement with a commercial bank or savings and loan shall not be an amount in excess of its capital structure or ten (10) percent of the institution's deposits, whichever is less.

(b) The commission shall not enter into a Kentucky Bank Repurchase Program repurchase agreement with a commercial bank or savings and loan association that will cause that institution to exceed in aggregate a total of \$25,000,000 in repurchase agreements.

(5) Yield charged and collateral requirements for commercial banks and savings and loans.

(a) Commercial banks and savings and loans submitting U.S. Treasuries and agencies excluding mortgage backed securities and collateralized mortgage obligations shall be charged the same duration yield generic repurchase rate as quoted by Bloomberg Financial Markets with 102 percent collateral.

(b) Commercial banks and savings and loans submitting mortgage-backed securities and collateralized mortgage obligations shall be charged the same duration yield generic repurchase rate as posted on Bloomberg Financial Markets plus fifty (50) basis points with 105 percent collateral.

(6) Payment for and safekeeping of purchases.

(a) All transactions shall be conducted on a payment-versus-delivery basis.

(b) A party shall not allow state funds to be released until delivery

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of adequate, negotiable collateral has been verified.

(c) Securities purchased from commercial banks or savings and loan associations in a repurchase agreement shall be received, verified, and safe-kept by the state's general depository bank or its agent.

JOHN P. MCCARTY, Secretary

KAREN POWELL, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 14, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 25, 1999 at 10 a.m. in Room 264 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 18, 1999, five days prior to the hearing, of their intent to attend. If no notification 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 regulations. 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: F. Thomas Howard, Deputy Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601, (502) 564-2924, Fax (502) 564-7416.

REGULATORY IMPACT ANALYSIS

Contact: F. Thomas Howard

(1) Type and number of entities affected: This administrative regulation affects the State Investment Commission and the Finance and Administration Cabinet in the executive branch.

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

(a) Cost of living and employment in the geographical area in which the administrative regulations will be implemented, to the extent available from the public comments received: There is no anticipated cost or savings on the cost of living and employment in the geographical area in which the administrative regulation will be implemented

(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 poses no anticipated cost on business in the geographical area in which it will be implemented.

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

1. First year following implementation: There are no compliance, reporting, or paperwork requirements associated with this administrative regulation, nor will there be any effect upon competition.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Savings will result from increased investment income on the Commonwealth's assets.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: No other factors are known at this time.

(b) Reporting and paperwork requirements: None.

(4) Assessment of anticipated effect on state and local revenues: No impact is expected on local revenues. State investment income revenue is expected to be enhanced.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No funds are anticipated to be required for implementation and enforcement of the administrative regulation. If funds are required, the source would be the 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:

(a) Geographical area in which administrative regulation will be implemented: No impact is expected.

(b) Kentucky: No impact is expected.

(7) Assessment of alternative method; reasons why alternatives were rejected: No other methods were considered.

(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 impact is expected.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: No impact is expected.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify an statute, rule, administrative regulation or government policy which may be in conflict, overlapping or duplication: There are no known statutes, administrative regulations or government policies which overlap or conflict with this administrative regulation.

(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 regulation applies to one entity, the State Investment Commission. The goals and guidelines for the use of financial agreements are uniformly applied to this entity.

FINANCE AND ADMINISTRATION CABINET

Office of Financial Management and Economic Analysis (Amendment)

200 KAR 14:091. Guidelines for money market instruments.

RELATES TO: KRS Chapter 42

STATUTORY AUTHORITY: KRS 42.525

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.525, provides that the State Investment Commission shall prescribe standards for the operation of the state's investment program. This administrative regulation establishes the standards which shall apply to the use of certain money market instruments which include bankers' acceptances, commercial paper and negotiable collateralized and uncollateralized certificates of deposit.

Section 1. Definitions. For purposes of this administrative regulation:

(1) "Commission" means the State Investment Commission;

(2) "Office" means the Office of Financial Management and Economic Analysis;

(3) "Bankers' acceptance" means a short-term negotiable discount note drawn on and accepted by a bank or trust company which is obligated to pay the face value amount at maturity, which is rated in one (1) of the three (3) highest categories by a nationally recognized rating agency.

(4) "Commercial paper" means an unsecured promissory obligation having a maturity of less than 270 days and is originated by an institution that is rated in the highest category by a nationally recognized rating agency.

Section 2. Bankers' Acceptances. (1) The office may purchase bankers' acceptances if originated by a bank rated in one (1) of the three (3) highest categories by a nationally recognized rating agency.

(2) The purchase of these instruments shall be:

(a) Made on a payment versus delivery basis; and

(b) Held in the Commonwealth's account in whatever depository shall be designated as eligible by the commission.

(3)(a) Investment in bankers' acceptances shall be made for a period of no longer than six (6) months per investment.

(b) The total amount of the investment in this security shall not exceed the amount of ten (10) million dollars in one (1) institution at a time.

Section 3. Commercial Paper. (1) The office may purchase com-

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mercial paper if [when] originated by an issuer that is rated in the highest category by a nationally recognized rating agency.

(2) The purchase of these instruments shall be:

(a) Made on a payment versus delivery basis; and

(b) Held in the Commonwealth's account in whatever depository shall be designated as eligible by the commission.

(3) The investments in commercial paper shall be made for a period of no longer than nine (9) months per investment and the total amount of the investment in this security shall not exceed the amount of twenty-five (25) ~~ten (10)~~ million dollars by any issuer at a time.

Section 4. Negotiable Certificates of Deposit, Collateralized and Uncollateralized. (1) The office may purchase collateralized and uncollateralized negotiable certificates of deposit if [when] issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency.

(2) The purchase of these instruments shall be:

(a) Made on a payment versus delivery basis; and

(b) Held in the Commonwealth's account in whatever depository shall be designated as eligible by the commission.

(3)(a) Investment in negotiable certificates of deposits shall be made for a period of no longer than nine (9) ~~six (6)~~ months per investment unless specifically authorized by KRS 41.610.

(b) The total amount of investments in certificates of deposit shall not exceed the amount of ten (10) million dollars in any one (1) institution at a time.

Section 5. Limit of Money Market Instruments of the State's Total Portfolio. The aggregate investment in bankers' acceptances, commercial paper, and negotiable certificates of deposit shall not exceed twenty (20) percent of the Commonwealth's total investment portfolio.

JOHN P. MCCARTY, Secretary

KAREN POWELL, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 14, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 25, 1999 at 11 a.m. in Room 264 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 18, 1999, five days prior to the hearing, of their intent to attend. If no notification 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 regulations. Send written notification of intent to be heard at the public hearing or written comments on the proposed administration regulation to the contact person.

CONTACT PERSON: F. Thomas Howard, Deputy Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601, (502) 564-2924, Fax (502) 564-7416.

REGULATORY IMPACT ANALYSIS

Contact: F. Thomas Howard

(1) Type and number of entities affected: This administrative regulation affects the State Investment Commission and the Finance and Administration Cabinet in the executive branch.

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

(a) Cost of living and employment in the geographical area in which the administrative regulations will be implemented, to the extent available from the public comments received: There is no anticipated cost or savings on the cost of living and employment in the geographical area in which the administrative regulation will be implemented.

(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

poses no anticipated cost on business in the geographical area in which it will be implemented.

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

1. First year following implementation: There are no compliance, reporting, or paperwork requirements associated with this administrative regulation, nor will there be any effect upon competition.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Savings will result from increased investment income on the Commonwealth's assets.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: No other factors are known at this time.

(b) Reporting and paperwork requirements: None.

(4) Assessment of anticipated effect on state and local revenues: No impact is expected on local revenues. State investment income revenue is expected to be enhanced.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No funds are anticipated to be required for implementation and enforcement of the administrative regulation. If funds are required, the source would be the 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:

(a) Geographical area in which administrative regulation will be implemented: No impact is expected.

(b) Kentucky: No impact is expected.

(7) Assessment of alternative method; reasons why alternatives were rejected: No other methods were considered.

(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 impact is expected.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: No impact is expected.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify an statute, rule, administrative regulation or government policy which may be in conflict, overlapping or duplication: There are no known statutes, administrative regulations or government policies which overlap or conflict with this administrative regulation.

(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 regulation applies to one entity, the State Investment Commission. The goals and guidelines for the use of financial agreements are uniformly applied to this entity.

GENERAL GOVERNMENT CABINET Kentucky Board of Veterinary Examiners (Amendment)

201 KAR 16:015. Fees.

RELATES TO: KRS 321.193, 321.195, 321.201, 321.207, 321.211, 321.221

STATUTORY AUTHORITY: KRS 321.193, 321.195, 321.201, 321.207, 321.211, 321.221, 321.235, 321.240

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessitated by KRS 321.193, 321.195, 321.201, 321.207, 321.211, and 321.221 and sets forth in detail all fees charged by the board.

Section 1. Application Fees. The following fees shall be paid in connection with all types of veterinary applications:

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(1) The application fee for a licensed veterinarian shall be fifty (50) dollars.

(2) The application fee for a veterinary technician or a veterinary technologist shall be twenty-five (25) dollars.

Section 2. Examination Fees. The following fees shall be paid in connection with the examinations required by the board:

(1) The fee for the National Board Examination for Veterinary Medicine shall be \$165.

(2) The fee for the Clinical Competency Test in Veterinary Medicine shall be \$140.

(3) The fee for the state examination shall be \$100.

(4) The fee for the veterinary technician or technologist examination shall be \$100 [eighty-(80)-dollars].

Section 3. Renewal Fees and Penalties for a Veterinarian, Veterinary Technician, and Veterinary Technologist. No person holding a license shall practice in this state after November 30 of the year in which their license is to be renewed unless such license has been renewed as provided by law and payment of the prescribed fee has been made. All licenses not renewed by November 30 following the expiration date shall be deemed expired and no person holding an expired license shall engage in the practice of veterinary medicine. The following fees and penalties shall be paid in connection with licensure renewals and penalties:

(1) The renewal fee for licensure as a veterinarian shall be fifty (50) dollars.

(2) The late renewal fee, including penalty, for the grace period extending from October 1 to November 30 for licensure as a veterinarian shall be \$150.

(3) The renewal fee for reinstatement of licensure as a veterinarian after November 30 shall be \$300.

(4) The renewal fee for renewal of licensure as a veterinary technologist or technician shall be thirty (30) dollars.

(5) The late renewal fee, including penalty, for the grace period extending from October 1 to November 30 for renewal of licensure as a veterinary technologist or technician shall be forty (40) dollars.

(6) The renewal fee for reinstatement of licensure as a veterinary technician or technologist after November 30 shall be fifty (50) dollars.

Section 4. Special Permit Fee. The fee for a special permit shall be fifty (50) dollars.

Section 5. Fee for Issuance of Certification for a Certified Animal Control Agency and a Certified Animal Euthanasia Specialist. (1) The fee for issuance of a certificate to an animal control agency shall be fifty (50) dollars.

(2) The fee for issuance of a certificate to a certified animal euthanasia specialist shall be fifty (50) dollars.

Section 6. Renewal of Certification for a Certified Animal Control Agency and a Certified Animal Euthanasia Specialist. (1) Each certified animal control agency and certified animal euthanasia specialist shall annually, on or before March 1, pay to the board a renewal fee of fifty (50) dollars for the renewal of the certificate. A certificate not renewed by March 1 of each year shall expire based on the failure to renew in a timely manner.

(2) A sixty (60) day grace period shall be allowed after March 1, during which time the agency or specialist may continue to function and may renew the certificate upon payment of a late fee of sixty (60) dollars.

(3) A certificate not renewed before May 1 shall terminate based on the failure to renew in a timely manner. Upon termination, the certificate is no longer valid in the Commonwealth.

(4) After the sixty (60) day grace period, a certificate that has been terminated may be reinstated upon payment of a reinstatement fee of seventy-five (75) dollars.

(5) The renewal fee for the first renewal shall be waived for a certificate received within 120 days prior to the renewal date.

NANCY L. BLACK, Director

JAMES J. GRAW, Assistant Attorney General

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 23, 1999, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 16, 1999, 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. 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: Nancy L. Black, Director, Division of Occupations and Professions, Post Office Box 1360, Frankfort, Kentucky 40602-1360, Phone: (502) 564-3296 ext. 224; Fax: (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency Contact: Nancy Black

(1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a certified animal control agency and a certified animal euthanasia specialist.

(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 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: 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: Yes

(c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that

only qualified applicants obtained certification and maintained their certification in accordance with statute.

(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 credential holders and applicants are treated uniformly under the law.

**FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Kentucky Board of Licensure of Marriage and Family Therapists
(Amendment)**

201 KAR 32:020. Equivalent course of study.

RELATES TO: KRS 335.330

STATUTORY AUTHORITY: KRS 335.320, 335.330

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.330(3) provides that the board shall define a course of study equivalent to a master's degree in marriage and family therapy and promulgate the equivalency standard by administrative regulations. This administrative regulation defines the criteria for the equivalent course of study.

Section 1. "An equivalent course of study" means a master's or doctoral degree from a regionally accredited institution in a mental health field closely related to marriage and family therapy which either contains, or has been supplemented by the coursework in each of the basic core areas listed in Section 2 of this administrative regulation.

Section 2. The basic core areas which are necessary in order to qualify as an equivalent course of study, shall include the following:

(1) Marriage and family studies. This area shall include a minimum of three (3) courses (nine (9) semester hours, twelve (12) quarter hours or 135 didactic contact hours). Courses in this area shall be theoretical in nature and have a major focus of system theory orientation, and may include:

- (a) Systems theory;
- (b) Family development;
- (c) Blended families;
- (d) Cultural issues in families;
- (e) Family subsystems;
- (f) Major models of family systems theory; or
- (g) Gender issues in families.

(2) Marriage and family therapy. This area shall include a minimum of three (3) courses (nine (9) semester hours, twelve (12) quarter hours or 135 didactic contact hours). Courses in this area shall have a major focus on family systems theory and systemic therapeutic interventions. Courses shall relate to major theories of family systems change and therapeutic practices evolving from each theoretical model. Examples may include:

- (a) Structural communications family therapy;
- (b) Strategic object relations family therapy;
- (c) Behavioral family therapy;
- (d) Intergenerational family therapy;
- (e) Solution oriented family therapy;
- (f) Narrative family therapy; or
- (g) Systemic sex therapy.

(3) Human development. This area shall include a minimum of three (3) courses (nine (9) semester hours, twelve (12) quarter hours or 135 didactic contact hours). Courses in this area provide knowledge of individual human personality development in both normal and abnormal manifestations. Topic areas may include:

- (a) Human development;
- (b) Personality theory [Psychopathology];
- (c) Human sexuality; or [Personality theory];

(d) Effects of gender and cultural issues on human development.
[Human sexuality; or

(e) Effects of gender and cultural issues on human development.]

(4) Psychopathology and Diagnostic and Statistical Manual of Mental Disorders. This area shall include a one (1) course minimum (three (3) semester hours, four (4) quarter hours or forty-five (45) didactic contact hours). Courses in this area should cover psychopathology, diagnosis through use of the Diagnostic and Statistical Manual of Mental Disorders, or applications of the Diagnostic and Statistical Manual of Mental Disorders to marriage and family therapy.

(5) Professional studies. This area shall include a minimum of one (1) course minimum (three (3) semester hours, four (4) quarter hours or forty-five (45) didactic contact hours). Courses may include:

- (a) Professional ethics in marriage and family therapy;
- (b) Legal responsibilities of the therapist;
- (c) Professional socialization and the role of the professional organization;

(d) Licensure or certification legislation; or

(e) Independent practice issues.

(6) ~~[(5)]~~ Research. This area shall include a minimum of one (1) course minimum (three (3) semester hours, four (4) quarter hours or forty-five (45) didactic contact hours). Courses may include:

- (a) Statistics;
- (b) Research methods;
- (c) Quantitative methodology; or
- (d) Other courses designed to assist the student to understand and perform research.

(7) ~~[(6)]~~ Practicum or internship. The practicum or internship shall include a minimum of one (1) year or 300 hours of supervised direct client contact with individuals, couples and families for family therapy.

(a) Applicants who did not complete a clinical practicum in graduate school may satisfy the practicum requirement with their first 300 post masters' client contact hours.

(b) These hours shall not be counted toward the two (2) years of required post master's experience or the 200 hours of clinical supervision.

Section 3. A course used to fulfill one (1) of the requirements set forth in Section 2 of this administrative regulation may be used to fulfill only one (1) of the basic core area requirements.

Section 4. (1) Applicants who completed their qualifying graduate degree in a mental health field prior to 1985 may substitute conferences, workshops, seminars, or in-service training related to marriage and family therapy attended or presented as a substitute for college coursework required in Section 2 of this administrative regulation.

(2) Forty-five (45) contact hours of relevant content shall equal three (3) semester hours of credit.

(3) A list of equivalencies the applicant wishes to have considered shall be organized by core area as set forth in Section 2 of this administrative regulation.

(4) Appropriate documentation shall include:

- (a) Date;
- (b) Title;
- (c) Course description;
- (d) Sponsoring organization;
- (e) Presenter, including presenter's qualifications;
- (f) Number of contact hours attended or presented; and
- (g) Certificates of attendance.

Section 5. Other acceptable equivalencies may be considered as follows:

(1) One (1) graduate level course taught on a subject relevant to marriage and family therapy after 1985 may be considered equivalent to three (3) semester hours of credit.

(2) Publication on a subject relevant to marriage and family therapy dated after 1985 may be submitted as equivalencies as acceptable to the board. Credit shall be granted as follows:

(a) A chapter in a book is equivalent to three (3) semester hours of credit. An applicant who authors or edits a book may be given credit equivalent to six (6) semester hours of credit. An applicant shall submit a copy of the title page, table of contents and bibliography.

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(b) Publication in a professional refereed journal is equivalent to three (3) semester hours of credit. An applicant shall submit the journal table of contents and a copy of the article as it appeared in the journal including bibliography.

Section 6. Clinical membership in the American Association for Marriage and Family Therapy plus documentation of coursework in psychopathology and the Diagnostic and Statistical Manual of Mental Disorders shall be accepted as evidence that the applicant has met both the educational and experiential requirements for licensure [certification] as set forth in KRS 335.330(3) and (4)(a) and (b).

Section 7. Incorporation by Reference. (1) Application for Licensure as a Marriage and Family Therapist or Marriage and Family Therapist Associate, first edition is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. SOHAN, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: June 17, 1999

FILED WITH LRC: June 17, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 30, 1999, at 10 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 23, 1999, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be 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 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: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: Approximately 399 licensed marriage and family therapists and approximately 10 supervisees who will become marriage and family therapist associates in the Commonwealth of Kentucky.

(2) Direct and indirect costs or savings to those affected: This administrative regulation is amended to comply with statutory mandates requiring a course in psychopathology as part of the basic core areas necessary to qualify as an "equivalent course of study," which is defined in section 1 of this regulation. There are no direct or indirect costs or savings associated with this regulation as it contains only definitions to be used in this chapter.

(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 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 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: The board will be required to spend more time reviewing applications to ensure the new qualifications are being met.

(a) Direct or indirect costs or savings: No specific indirect costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: A new form has been drafted and is incorporated by reference.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Board funds generated from licensure fees.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Specific documentation of diagnostic techniques.

(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: Board is not aware of any statute, regulation or government policy which may be in conflict or is duplicated by this proposed regulation.

(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 comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all marriage and family therapists and marriage and family therapist associates.

FINANCE AND ADMINISTRATION CABINET

Division of Occupations and Professions

Kentucky Board of Licensure of Marriage and Family Therapists (Amendment)

201 KAR 32:060. Continuing education requirements.

RELATES TO: KRS 335.340(1)(b)

STATUTORY AUTHORITY: KRS 335.320(7), 335.340(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.340(1)(b) authorizes the board to promulgate an administrative regulation requiring marriage and family therapists to complete continuing education requirements as a condition of renewal of their certification. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

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

(1) "Approved" means recognized by the Kentucky Board of Licensure [Certification] of Marriage and Family Therapists.

(2) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.

(3) "Program" means an organized learning experience planned and evaluated to meet behavioral objectives; programs may be presented in one (1) session or in a series.

(4) "Academic courses offered by an accredited post-secondary institution" means:

(a) A marriage and family therapy course, designated by a marriage and family therapy course title or content, beyond the under-

graduate level; or

(b) An academic course, relevant to marriage and family therapy, beyond the undergraduate level. General education courses, either electives or designated to meet degree requirements, shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

(5) "Relevant" means having content applicable to the practice of marriage and family therapy as determined by the board.

(6) "Provider" means an organization approved by the Kentucky Board of Licensure [Certification] for Marriage and Family Therapists for providing continuing education programs.

(7) "Successful completion" means that the licensee [certificate holder] has satisfactorily met the specific requirements of the program and the licensee [certificate holder] has earned the continuing education hours.

Section 2. Accrual of Continuing Education Hours; Computation of Accrual. (1) A minimum of fifteen (15) [forty-five (45)] continuing education hours shall be accrued by each licensee [person holding certification] during the one (1) [three (3)] year licensure [certification] period for renewal, except that those persons holding certification which is due to be renewed by May 1, 1998, shall obtain fifteen (15) continuing education hours for this renewal period only. All persons holding certification shall obtain forty-five (45) continuing education hours for each renewal thereafter.

(2) The certification period shall be May 1 through April 30 of the third calendar year.

(2) [(3)] All hours shall be in or related to the field of marriage and family therapy.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the mandatory license [certificate] shall be directly related to the professional growth and development of marriage and family therapy practitioners. They may be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. Programs from the following sources shall be deemed to be relevant to the practice of marriage and family therapy and shall be approved without further review by the board:

(a) Programs provided by the American Association for Marriage and Family Therapy (AAMFT) and its state affiliates;

(b) Academic courses as set forth in Section 1 of this administrative regulation; and

(c) Continuing education programs offered by Commission on Accreditation for Marriage and Family Therapy Education accredited institutions.

(2) Programs requiring board review and approval. Programs from the following sources shall be reviewed and determined to be relevant and therefore subsequently approved by the board:

(a) Relevant programs, including home study courses and in-service training provided by other organizations, educational institutions, or other service providers approved by the board;

(b) Relevant programs or academic courses presented by the licensee [certificate holder]. Presenters of relevant programs or academic courses may earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course;

(c) Relevant publications in a professionally recognized or juried publication. Credit may be granted only for those publications that were published within the one (1) [three (3)] year period immediately preceding the renewal date. A licensee [certificate holder] shall earn one-half (1/2) of the continuing education hours required for a relevant publication. Only one (1) publication may be counted during each renewal period; and

(d) Related areas not specifically a part of the field of marriage and family therapy may be approved for up to two (2) [five (5)] continuing education hours out of the fifteen (15) [forty-five (45)] required if the board believes the related areas may serve to enhance the licensee's [certificate holder's] ability to practice.

Section 4. Procedures for Preapproval of Continuing Education Sponsors and Programs. (1) Any entity seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, stating the:

- (a) Type of learning activity;
- (b) Subject matter;
- (c) Names and qualifications of the instructors; and
- (d) Number of continuing education hours offered.

(2) A continuing education activity shall be qualified for approval if the board determines the activity being presented:

- (a) Is an organized program of learning;
- (b) Pertains to subject matters which integrally relate to the practice of marriage and family therapy;
- (c) Contributes to the professional competency of the licensee [certificate holder]; and
- (d) Is conducted by individuals who have educational training or experience acceptable to the board.

Section 5. Responsibilities and Reporting Requirements of Licenses [Certificate Holders]. A licensee [certificate holder] shall be responsible for obtaining required continuing education hours. He shall identify his own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills and attitudes. Each person holding licensure [certification] shall:

(1) Select approved activities by which to earn continuing education hours;

(2) Submit to the board when applicable a request for approval for continuing education activities not approved by the board as set forth in Section 4 of this administrative regulation;

(3) Maintain records of continuing education hours. Each licensee [person holding certification] shall maintain, for a period of one (1) year [three (3) years] from the date of renewal, all documentation verifying successful completion of continuing education hours. During each licensure [certification] renewal period, up to fifteen (15) percent of all licensees [certificate holders] shall be required by the board to furnish documentation of the completion of the appropriate number of continuing education hours for the current renewal period. Verification of continuing education hours shall not otherwise be reported to the board;

(4) Document attendance and participation in a continuing education activity in the form of official documents including transcripts, certificates, affidavits signed by instructors, receipts for fees paid to the sponsor, or less formal evidence including written summaries of experiences that are not otherwise formally or officially documented in any way. The type of documentation required shall vary depending on the specific activity submitted to the board for approval; and

(5) Fully comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 335.340(1)(b) and may result in the refusal to renew, suspension, or revocation of the licensure [certification].

Section 6. Carry-over of Continuing Education Hours, Prohibited. There shall not be a carry-over of continuing education hours earned in excess of those required under Section 2 of this administrative regulation into the immediately following licensure [certification] renewal period.

Section 7. Board to Approve Continuing Education Hours; Appeal when Approval Denied. In the event of denial, in whole or part, of any application for approval of continuing education hours, the licensee [person holding certification] shall have the right to request reconsideration by the board of its decisions. The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of continuing education hours.

Section 8. Waiver or Extensions of Continuing Education. (1) The board may, in individual cases involving medical disability, illness, or undue hardship as determined by the board, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the same or make the required reports.

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(2) A written request for waiver or extension of time involving medical disability or illness shall be submitted by the licensee [~~person holding certification~~] and shall be accompanied by a verifying document signed by a licensed physician.

(3) Waivers of the minimum continuing education requirements or extensions of time within which to fulfill the continuing education requirements may be granted by the board for a period of time not to exceed one (1) calendar year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee [~~person holding certification~~] shall reapply for the waiver or extension.

JOHN P. SOHAN, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: June 17, 1999

FILED WITH LRC: June 17, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 30, 1999, at 10 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 23, 1999, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be 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 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: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: All marriage and family therapists.

(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: No 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: No comments 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: No change.

2. Second and subsequent years: See above.

(3) Effects on the promulgating administrative body: None

(a) Direct or indirect costs or savings: None

1. First year: See above.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Board funds generated from licensure fees.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Brings the administrative regulation into compliance with the statutes.

(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: Board is not aware of any statute, regulation or government policy which may be in conflict or is duplicated by this proposed regulation.

(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 comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all marriage and family therapists and marriage and family therapist associates.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

301 KAR 1:015. Boats and motor [~~outboard motors;~~] restrictions.

RELATES TO: KRS 150.010, 150.090, 150.620, 150.625, 150.990, 235.280, 235.990

STATUTORY AUTHORITY: KRS 150.620, 150.625, 235.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.280 authorizes the department to promulgate administrative regulations to govern the fair, reasonable, equitable and safe use of all waters of this state. KRS 150.620 and 150.625 give the department authority to promulgate administrative regulations governing lands and waters it has acquired. This administrative regulation is necessary to limit the size of boats and motors on small lakes for safety reasons and to minimize interference with other users. (To regulate the size of outboard motors and boats on state-owned lakes to minimize the conflict with the primary purposes of the lakes which are the perpetuation of fish or game populations and the associated sports. This amendment is necessary to prohibit the use of internal combustion motors on Lebanon City Lake, and to remove motor size restrictions and increase the boat size limit on Guist Creek Lake.)

Section 1. [Boat-Size Restrictions:] (1) Except as otherwise specified in this section, a person shall not operate on the lakes listed in this administrative regulation [A person shall not operate on the lakes listed in this administrative regulation]:

(a) A houseboat [Houseboats].

(b) A monohull boat [Except on Guist Creek Lake after February 29, 1996, monohull boats, except canoes], with a centerline length exceeding eighteen (18) feet, six (6) inches.

(c) A pontoon boat [Except on Lake Malone or Lake Beshear, pontoon boats] with a float or [floats and] decking exceeding twenty-two (22) feet.

(d) A boat motor without an underwater exhaust.

(e) Except in a designated skiing zone, a boat faster than idle speed when passing a boat with an occupant actively engaged in fishing. [On Lake Malone or Lake Beshear, pontoon boats with floats and decking exceeding thirty (30) feet.

(f) On Guist Creek Lake after February 29, 1996, monohull boats, except canoes, with a centerline length exceeding twenty-two (22) feet.]

(2) A person shall not operate:

(a) A monohull boat with a centerline length exceeding twenty-two (22) feet on:

1. Guist Creek Lake; or

2. After February 29, 2000, Lake Malone.

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(b) A pontoon boat with a float or decking exceeding thirty (30) feet on:

1. Lake Malone; or
2. Lake Beshear.

(3) Length restrictions in this section shall not apply to a canoe.

[There shall be no size restriction on canoes.]

Section 2. A person shall not operate an electric or an internal combustion boat motor [motors] on:

- (1) Lake Chumley, Lincoln County;
- (2) Dennie Gooch Lake, Pulaski County;
- (3) Martin County Lake, Martin County; and
- (4) Kingdom Come Lake, Harlan County.

Section 3. A person shall not operate an internal combustion boat motor [Persons shall not use internal combustion motors] on:

- (1) Carter Caves Lake, Carter County;
- (2) Spurlington Lake, Taylor County;
- (3) Marion County Lake, Marion County;
- (4) Lake Washburn, Ohio County;
- (5) Bert Combs Lake, Clay County;
- (6) McNeely Lake, Jefferson County;
- (7) Lake Mauzy, Union County;
- (8) Carpenter Lake and Kingfisher Lakes, Daviess County;
- (9) Metcalfe County Lake, Metcalfe County;
- (10) Briggs Lake, Logan County;
- (11) Big Turner, Ballard County;
- (12) Little Turner, Ballard County;
- (13) Shelby, Ballard County;
- (14) Mitchell, Ballard County;
- (15) Happy Hollow, Ballard County;
- (16) Burnt Slough, Ballard County;
- (17) Butler, Ballard County;
- (18) Sandy Slough, Ballard County;
- (19) Long Pond, Ballard County;
- (20) Cross Slough, Ballard County;
- (21) Little Green Sea, Ballard County;
- (22) Burnt Pond, Ballard County;
- (23) Arrowhead Slough, Ballard County;
- (24) Deep Slough, Ballard County;
- (25) Beaver Dam Slough, Ballard County;
- (26) Cypress Slough, Ballard County;
- (27) Twin Pockets Slough, Ballard County;
- (28) Lake Reba, Madison County;
- (29) Lincoln Homestead Lake, Washington County;
- (30) Goose, Muhlenberg County;
- (31) Island, Ohio County;
- (32) South, Ohio County;
- (33) Lebanon City Lake, Marion County; [after February 29, 1996].

Section 4. On the following lakes, a person shall not operate a boat motor [:

- (1) Use motors larger than ten (10) horsepower; [:
- (2) Operate motors faster than slow speeds which cause no disturbance or interference with fishing.]

- (1) [(a)] Shanty Hollow Lake, Warren County;
- (2) [(b)] Bullock Pen Lake, Grant County;
- (3) [(c)] Lake Boltz, Grant County;
- (4) [(d)] Kincaid Lake, Pendleton County;
- (5) [(e)] Elmer Davis Lake, Owen County;
- (6) [(f)] Beaver Creek Lake, Anderson County;
- (7) [(g)] Herb Smith Lake, Harlan County;
- (8) [(h)] Corinth Lake, Grant County;
- (9) [(i)] Swan Lake, Ballard County.

Section 5. A person shall not operate:

- (1) A boat motor larger than 150 horsepower on Lake Beshear. [:
- (1) Guist Creek Lake, Shelby County, through February 29, 1996;
- (2) Lake Malone, Todd, Muhlenberg and Logan Counties; and
- (3) Lake Beshear, Christian and Caldwell Counties.

Section 6. Persons shall not exceed idle speed on:

- (2) A motorboat faster than idle speed on:

- (a) [(1)] Greenbo Lake, Greenup County;
- (b) [(2)] Pan Bowl Lake, Breathitt County; or [and]
- (c) [(3)] Wilgreen Lake, Madison County.

[Section 7. Persons shall not operate boat motors without underwater exhausts on the lakes listed in this administrative regulation.]

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

MIKE BOATWRIGHT, Chairman

DOUGLAS SCOTT PORTER, Assistant Attorney General

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 14, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 27, 1999 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 20, 1999, 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: Jennifer Fetter, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-3400, FAX (502) 564-6508.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fetter

(1) Type and number of entities affected: The provisions of this administrative regulation affect anglers who boat on smaller (less than 1,000 acres) lakes in Kentucky. There is currently no data to determine what percentage of Kentucky's approximately one million anglers actually utilize these bodies of water.

(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 received. This amendment to an existing administrative regulation should have no impact on costs of living or employment.

(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 received. This amendment to an existing administrative regulation should have no impact on costs 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: This amendment to an existing administrative regulation will not affect compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same as for first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This amendment to an existing administrative regulation will create no additional direct or indirect costs or savings.

2. Continuing costs or savings: Same as for first year.

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: Fish and Game Fund.

(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 comments received. This amendment to an existing administrative regulation should have no negative impact, and may have some positive impact in the geographical areas where implemented.

(b) Kentucky: This amendment to an existing administrative regulation should have no negative impact, and may have some positive impact on Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The amendment to this administrative regulation removes the horsepower restriction on boat motors at Lake Malone. The alternative of leaving the current restriction at 150 horsepower was rejected because the size of boat motors has increased, making more and more boats unusable on this lake. The alternative of a higher horsepower limit was rejected because there are no practical safety advantages of limiting horsepower above 150 hp.

(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 environmental and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify and 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? Tiering was used to the extent that specific regulations are applied to different bodies of water in an effort to create maximum recreational opportunities while promoting safety and minimal interference with other users. In other instances, tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates.

PUBLIC PROTECTION AND REGULATION CABINET
Office of the Petroleum Storage Tank
Environmental Assurance Fund
(Amendment)

415 KAR 1:080. Claims procedures.

RELATES TO: KRS 224.60-110, 224.60-115, 224.60-120(5), 224.60-130, 224.60-140, 40 CFR Parts [Part] 280, 281

STATUTORY AUTHORITY: KRS 224.60-120, 224.60-130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130(2)(a) through (e) require [requires] the fund to establish the procedures [necessary] to administer the fund. This administrative regulation establishes the procedures for an eligible [to be followed by a] petroleum storage tank owner or operator [who is certified as eligible to participate in the financial responsibility account or is eligible to participate in the petroleum storage tank account] to make a claim to the office [fund] for reimbursement or payment of the cost [costs] of corrective action.

Section 1. Application for Assistance. (1) An owner or operator eligible to participate in the financial responsibility account or the petroleum storage tank account shall apply for assistance with the office [fund].

(2) Application shall be made on the Application for Assistance form [dated June 1996, hereby incorporated by reference. This form may be inspected and obtained at the Office of Petroleum Storage Tank Environmental Assurance Fund, 911 Leawood Drive, Frankfort, Kentucky 40601, (502) 564-5981. The business hours of the fund are from 8 a.m. to 4:30 p.m. eastern time Monday through Friday]. The eligible owner or operator shall demonstrate:

(a) The eligibility requirements of 415 KAR 1:060 or 415 KAR 1:070 have been met; and

(b) A release requiring corrective action from an eligible facility has occurred and has been reported to the cabinet. The necessity for corrective action shall be demonstrated by analytical sample results. If closure can be issued by the cabinet without the performance of cor-

rective action, the facility is not eligible for reimbursement of corrective actions costs from the fund [participation].

(3)(a) If the owner or operator meets the requirements of subsection (2) of this section the office shall:

1. [fund may] Approve the Application for Assistance; and

2. Establish the amount to be obligated by the appropriate account.

(b) Reimbursement pursuant to an approved Application for Assistance shall be [is] restricted to documented costs approved by the secretary or the secretary's designee.

(c) The approved Application for Assistance may be used as a guarantee of payment by the owner or operator to a contractor performing corrective action to the extent of the amount obligated and approved by the secretary [fund].

(4) The office shall amend an approved Application for Assistance to provide an additional obligation of funds to guarantee payment of eligible corrective actions costs if:

(a) A written request and supporting documentation is submitted to the office by the eligible owner or operator;

(b) It is demonstrated to the office that an additional obligation of funds is necessary to guarantee payment of eligible costs of corrective action;

(c) The office determines that the additional costs of corrective action are necessary to comply with the written directions and administrative regulations of the cabinet;

(d) The office notifies the eligible applicant in writing that an additional obligation of funds has been approved. Supporting documentation shall fully explain the need for the additional corrective action and set forth the unit costs, in compliance with the requirements of 415 KAR 1:110, for the performance of the additional corrective action including, but not limited to:

1. The costs of personnel;

2. Sampling;

3. Laboratory testing;

4. Excavation;

5. Haulage;

6. Treatment or disposal of contaminated soil or water;

7. Other expenses necessary to comply with the requirements of 401 KAR Chapter 42.

(e) The office may request additional information and documentation to determine that the additional costs of corrective action are eligible, necessary and reasonable. Additional requested information and documentation shall be provided to the office by the owner or operator within thirty (30) days of the receipt of the request unless otherwise agreed to in writing by both parties within the thirty (30) day period. A request by the office for additional information and documentation shall be made by certified mail. If the owner or operator fails to provide the requested additional information and documentation, the office shall deny the owner's or operator's request for an additional obligation of funds.

(f) Payment shall not exceed the amount obligated by the office, and the office shall not reimburse any additional corrective action costs incurred prior to approval. [The fund may amend the approved Application for Assistance upon application by the eligible owner or operator, upon a demonstration that the amendment is necessary to guarantee payment of eligible costs of corrective action and that the additional costs are necessary to comply with the written directions and administrative regulations of the cabinet. Payment shall not exceed the amount obligated by the fund.]

(5) Payment under the terms of the approved Application for Assistance may be made when the eligible owner or operator submits a claim form, and a certification that the cost was reasonable [costs were consistent with the bid] and necessary to comply with [the administrative regulations of the cabinet at] 401 KAR Chapter 42. The requirement for the use of a certified contractor shall be enforced after March 1, 1995 pursuant to 415 KAR 1:114 (1994).

(6) The office [fund] may request additional information and documentation from the applicant necessary to verify eligibility or account placement. Failure by the applicant to provide the requested information and documentation within sixty (60) days of the receipt of the request shall cause the application to be denied. The office shall [fund may] grant an extension of thirty (30) days for good cause demonstrated by the applicant. Denial of the Application for Assistance

under this subsection shall not prevent the owner or operator from reapplying if [once] the requested information becomes available.

Section 2. Submittal of Claim. (1) A petroleum storage tank owner or operator eligible for participation in the fund shall submit a claim for reimbursement or payment from the office [fund] for the costs of corrective action on the Claim Request form and Listing of Invoices form [dated June 1996, hereby incorporated by reference. These forms 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 from 8 a.m. to 4:30 p.m. eastern time Monday through Friday]. The claim shall contain:

- (a) Original invoices for all costs for which payment is sought;
- (b) A copy of the contract executed by the owner or operator and the person contracting to perform the corrective action;
- (c) Documentation that the release has been reported to the cabinet; and

(d) Laboratory analysis substantiating:

1. The necessity of the corrective action [to be or having been performed] except for initial abatement and free product recovery as required by 401 KAR 42:060; and

2. [laboratory analysis substantiating] The necessity of off-site disposal of contaminated soil; and

(e) Documentation to establish that the owner or operator has complied with the administrative regulations or written directions of the cabinet.

(2) Reimbursement sought through the use of the Soil Disposal/Treatment Claim Request form shall be limited to the cost of:

(a) Transportation and disposal of contaminated soil at a contained landfill or treatment facility, permitted by the cabinet's Solid Waste Branch; and

(b) Material, including transportation, for backfill material;

(3) Reimbursement sought through use of the Capital Equipment Claim form shall be limited to the purchase price, less determined salvage value, as approved under Section 8(1)(m) of this administrative regulation;

(4) The office [fund] may require additional information and documentation to determine the eligibility, necessity and reasonableness of a cost or costs contained in a request for payment.

(5) {(3)}(a) A claim received by the office shall be reviewed in accordance with the following unless an extension of time is agreed to by the applicant and the office:

1. A Claim Request form shall be reviewed within ninety (90) days of receipt;

2. A Soil Disposal/Treatment Claim Request form shall be reviewed within thirty (30) days of receipt, if the costs has been obligated and pre-approved, if necessary, prior to submission;

3. Capital Equipment Claim Request forms shall be reviewed within thirty (30) days of receipt, if costs have been obligated and pre-approved, if necessary, prior to submission;

4. A Soil Disposal/Treatment Claim Request or Capital Equipment Claim Request submitted prior to securing an obligation or preapproval shall be reviewed within ninety (90) days of the receipt of an obligation and, if necessary, a preapproval. [The fund shall review a claim requesting payment within ninety (90) days of its receipt by the fund, unless an extension of time is agreed to by the applicant, and subject to subsection (5) of this section;]

(b) If the claim is determined to be deficient, the office [fund] shall notify the applicant, by certified mail, of the deficiencies. Supplemental information to correct the deficiencies shall be submitted by the applicant and received by the office [fund] within fifteen (15) days of the notice of receipt by the applicant. The office [fund] may grant the applicant a thirty (30) day extension if the written request is received within fifteen (15) days of receipt of the notice of deficiency;

(c) If the applicant fails to correct the deficiency or to supply the additional information required by the office [fund] staff, that portion of the claim shall be denied.

(6) {(4)} The office [fund] shall issue a determination pursuant to KRS 224.60-140(7) as to whether the costs submitted in the claim are eligible for payment.

(7) {(5)} The claim may be submitted with the application for assistance but shall [will] not be considered received for review until the

application has been approved by the secretary or the secretary's designee. If a claim request exceeds the amount currently obligated for the facility, the claim shall [will] not be considered received for review until a sufficient additional obligation has been approved by the secretary.

(8) {(6)} An owner or operator of a facility with an approved Application for Assistance shall submit to the office [fund], a copy of all reports required by administrative regulation or requested, in writing, by the cabinet detailing the status of remedial action at the facility, including site check, site investigation, corrective action plans, quarterly reports, closure assessment reports, site classification documents and any correspondence with the cabinet addressing remedial measures or regulatory requirements pertaining to the facility.

(9) If prior approval of a cost is required pursuant to 415 KAR 1:110, and not obtained by the owner or operator, in writing, prior to that cost being incurred, the office shall not reimburse any portion of that cost.

Section 3. Contracts. (1) An owner or operator contracting for the performance of corrective action, including permanent closure, change-in-service, release investigation, site check, or site investigation, shall obtain a contract from a certified contractor or contracting company to be eligible for reimbursement or payment from the fund. The contract shall be obtained prior to commencing the activity except emergency response measures as directed by the cabinet. The contract shall set forth the unit costs, in compliance with the requirements of 415 KAR 1:110, for the performance of the activity, including, but not limited to, the costs of personnel, sampling, excavation, treatment or disposal of contamination, and other necessary expenses to comply with the provisions of 401 KAR Chapter 42.

(2) A copy of the contract shall be submitted with an Application for Assistance.

(3) An owner or operator who has submitted an application for assistance received prior to the effective date of this administrative regulation shall be required to submit a copy of a contract setting forth the scope of the services to be performed and detailing the unit costs in order to be eligible for continued reimbursement or payment from the fund. If a contract is changed or revised, a copy of that contract shall be submitted to the office.

Section 4. Signatures. (1) A claim form or an Application for Assistance shall be signed by an eligible owner or operator as follows:

(a) For a corporation, by:

1. A principle executive officer of at least the level of vice-president;

2. [or] The duly authorized representative or agent of the executive officer if the representative or agent is responsible for overall operation of the facility; or

3. A person designated by [whom] the board of directors [designates] by means of a corporate resolution;

(b) For a partnership, sole proprietorship or individual, by a general partner, the proprietor or individual respectively; or

(c) For a municipality, state or federal agency by either a principle, executive officer or ranking elected official.

(2) A claim request or application for assistance shall also be signed by:

(a) The contractor certified pursuant to 415 KAR 1:114 who is responsible for the overseeing of the corrective action;

(b) An authorized representative of the contracting company certified pursuant to 415 KAR 1:116.

(3) All signatories [The authorized representative] shall make the following certification on a claim form:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision, that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that this submitted information, is true, accurate, and complete. I certify that all costs are necessary and were actually incurred in the performance of corrective action. I further certify that, if not the owner or operator, I am authorized by the owner or operator as an agent to make this certification, or I am the person certified under 415 KAR Chapter 1 and my (our) certification is in good standing.

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(4) ~~[(3)]~~ The owner or operator signing the certification shall submit documentary evidence as requested by the office ~~[fund]~~ to substantiate the legality of the authorized representatives power of agency.

Section 5. Criteria For Approval of a Claim. (1) ~~A claim with an [The fund shall review all claims with] approved Application [Applications] for Assistance for the Financial Responsibility Account or the Petroleum Storage Tank Account shall be reviewed in the time period specified at Section 2(5)(a) of this administrative regulation [in the order in which they are received].~~

(2) The claims shall be reviewed to determine whether:

(a) The corrective action activities comply with 401 KAR Chapter 42 (the administrative regulations of the cabinet);

(b) Each cost is ~~[The costs are]~~ necessary, reasonable and consistent with the requirements of 401 KAR Chapter 42;

(c) The claim form is properly completed and accurate, and all necessary information has been supplied; ~~and~~

~~(d) The applicant has complied with Section 11 of this administrative regulation.~~

(3) ~~[(All)]~~ Claims from owners or operators for a facility eligible to participate in the petroleum storage tank account shall be ranked as provided in 415 KAR 1:090.

Section 6. Payment. (1) ~~A claim [Claims] shall be reviewed by the office [fund] to determine eligibility for payment and compliance with the administrative regulations of the office [fund].~~

(2) Requests for payment covering cost incurred by an owner or operator under an approved Application for Assistance may be submitted to the office ~~[fund]~~ thirty (30) days following initiation of corrective action required by law. Subsequent requests for payment may be made at thirty (30) day intervals thereafter until completion of the authorized activities. All requests for payment, except a final request for payment, shall equal or exceed \$1,000. A claim shall not be submitted for reimbursement until the value of the claim meets or exceeds the applicant's entry level. Any request not meeting the requirements of this section will be returned unprocessed to the applicant.

(3) A reimbursement request shall identify the beginning and ending dates for the time interval submitted in the claim. All cost incurred during the specified interval shall be submitted with the claim, except the cost submitted for reimbursement under Section 2(2) or (3) of this administrative regulation.

(4) A claim for reimbursement shall be submitted within two (2) years of the effective date of this administrative regulation or two (2) years after issuance of a no further action letter by the cabinet.

(5) A payment ~~[(3) All payments]~~ shall be subject to final recommendation by the executive director and approval by the secretary or the secretary's designee.

Section 7. Payment Procedures. (1)(a) When an owner or operator has submitted a claim for payment by the office ~~[fund]~~, payment shall be made by a check written to the eligible owner or operator, or to a designated third-party. A designation made by power of attorney may be revoked at any time by notice to the attorney-in-fact and to the office ~~[fund]~~.

(b) A request for an interim partial payment shall be accompanied by documentation required by Section 2(8) ~~[(6)]~~ of this administrative regulation;

(c) A request for final payment shall be accompanied by a closure letter issued by the cabinet; or

(d) A request for one (1) time payment in full shall be accompanied by a closure letter issued by the cabinet.

(2) Prior to payment being issued, the eligible owner or operator shall submit documentary evidence verifying that an amount equal to the entry level has been paid by the owner or operator.

Section 8. Eligible and Ineligible Costs. The office's ~~[fund's]~~ reimbursement for costs of corrective action shall be made in accordance with 415 KAR 1:110 and limited to reasonable and necessary costs, expenses and other obligations incurred for corrective action or site investigation required by law under the provisions of KRS Chapter 224 and administrative regulations pursuant thereto, as the result of motor

fuel release into the environment from a petroleum storage tank. The office ~~[fund]~~ may require the submission of a report of analytical laboratory results to substantiate the need for corrective action and may require other information and documentation needed to determine the reasonableness and necessity of corrective action. For corrective action to be necessary for office ~~[fund]~~ purposes, contamination exceeding the levels for which the cabinet will allow closure ~~shall [must]~~ be established by the applicant.

(1) Eligible costs shall include:

(a) Testing to determine tightness of tanks and lines in response to a suspected release due to tank or delivery line failure if a release of motor fuel is detected or upon written direction of the cabinet;

~~(b) [Removal, treatment, and disposal of petroleum products from petroleum storage tank systems necessary to perform site investigation or corrective action;~~

~~(c) Performance of site checks, and site investigation to assess the extent of contamination caused by a motor fuel release from a petroleum storage tank system in compliance with the administrative regulations of the cabinet or pursuant to the written directions of the cabinet;~~

~~(d) [(d)] Preparation of corrective action plans;~~

~~(e) [(e)] Necessary monitoring of the environment performed pursuant to the written direction of the cabinet or in compliance with the administrative regulations of the cabinet;~~

~~(f) [(f)] Necessary laboratory services to analyze samples taken as part of the site check, site investigation, corrective action, or maintenance of the corrective action system if [where] a release has occurred at the facility, or at the written direction of the cabinet;~~

~~(g) [(g)] Restoration or replacement of a private or public drinking water supply;~~

~~(h) [(h)] Removal, treatment, and disposal of contaminated liquids, other than those liquids and sludges contained in the tank, and soils resulting from corrective action;~~

~~(i) [(i)] The cost of material [costs of materials] purchased to perform the site check, site investigation or corrective action, including but not limited to, bailers, sample containers, and similar equipment;~~

~~(j) [(j)] The cost [costs] of implementation of corrective action technology [technologies] such as soil venting or bioremediation, or [and] groundwater treatment system [systems], if accepted by the cabinet for the facility and prior approval is received from the office pursuant to 415 KAR 1:110;~~

~~(k) [(k)] The cost of [(k) Costs for] replacing blacktop or concrete if removal was necessary to perform the corrective action;~~

~~(l) [(l)] Attorney fees integral to the performance of off-site corrective action, such as preparation of an off-site access agreement [agreements]; [and]~~

~~(m) [(m)] Other costs requested by the applicant and approved by the office [fund], demonstrated to be necessary to the performance of a site check, site investigation or corrective action, or maintenance of the corrective action system; and~~

~~(n) [(n)] A purchase [Purchases] of capital equipment in excess of \$1,000 if the lease or rental for the equipment will exceed the purchase price. Prior approval for purchases of capital equipment in excess of \$1,000 shall be obtained from the executive director of the office, in accordance with Section 12 of this administrative regulation.~~

(2) The following costs shall not be eligible for payment or reimbursement from the fund:

(a) Replacement, repair, maintenance, or retrofitting of tanks or piping;

(b) New or replacement fill material for tanks and piping;

(c) Equipment such as drill rigs and earth moving equipment;

(d) Loss of business, income or profits;

(e) Attorneys fees related to:

1. Any judicial or administrative litigation;

2. Consultation on ~~[regulatory]~~ administrative regulations;

3. Consultation on office ~~[fund]~~ administrative regulations;

4. Preparation or submittal of office ~~[fund]~~ documentation; and

5. Any other services determined by the office ~~[fund]~~ not to be integral to the performance of corrective action.

(f) Decreased property values for the facility;

(g) Facility improvements;

(h) Payment of the owner or operator's personnel for overtime or staff time in planning or implementing a site check, site investigation or

corrective action plan, except as allowed under 415 KAR 1:116;

- (i) An aesthetic improvement [improvements] to the facility;
- (j) Interest on an overdue accounts or [and] loans;
- (k) A cost [Costs] covered by insurance payable to the owner or operator;
- (l) A contractor surcharge [surcharges] implemented because the owner or operator failed to act in a timely fashion;
- (m) [Any] Work performed that is not in compliance with safety codes;
- (n) A cost [Any costs] associated with a release [releases] from an aboveground tank [tanks] or aboveground piping;
- (o) Contractor markup expenses for normally expected overhead items and in-stock materials;
- (p) Contractor markup expenses for personnel costs;
- (q) A [rush] laboratory rush fee [fees] unless directed by the cabinet;
- (r) A cost or [Costs and] cost recovery for governmental emergency services;
- (s) Preparation and implementation of a corrective action plan [plans] once a written notice of closure is issued by the cabinet;
- (t) Payment from the fund shall only be made for the costs of corrective action required by the cabinet's administrative regulations or at written direction of the cabinet and shall not be made for costs to upgrade the facility. Payment from the fund shall [will] not be made for any work or portion of [that] work performed at a facility where the results of laboratory analysis do not confirm the need for corrective action;
- (u) Cost of any party or parties employed to act as a surrogate or stand-in for the owner or operator of the facility;
- (v) Preparation of fund documentation or client invoices that will be submitted to the office for reimbursement;
- (w) Except as provided in 415 KAR 1:130, cost related to the removal, or actions incidental to the removal of a tank system. Those cost include, but are not limited to, those cost listed in 415 KAR 1:130(5);
- (x) Cost of resampling and laboratory tests performed under Section 11(4)(b) of this administrative regulation or cost of resampling and laboratory tests performed as a result of an operational or methodology mistake by the analytical laboratory, or cost for an analytical laboratory to become certified or accredited under the requirements of KRS 224.60-130(2)(a);
- (y) Additional costs relating to compliance with a local program operating under KRS 224.60-105(4), to the extent that those costs are required to comply with corrective action standards more stringent than required by the cabinet; and
- (z) Any other service or cost determined by the office to not be a reasonable and necessary cost of corrective action.

Section 9. Delegation to Executive Director. The secretary may delegate responsibility for the approval of a claim, an Application for Assistance, or the payment of a claim to the executive director.

Section 10. Subrogation. Prior to making payment of a claim, the office [fund] shall acquire by subrogation the rights of the person receiving payment to recover the amounts paid by the office [fund] for the performance of corrective action from the person responsible or liable for the release.

Section 11. Field Audits. (1) The office shall be authorized to enter and inspect a facility seeking or intending to seek reimbursement for the cost of corrective action in order to determine the reasonableness and necessity of the cost of corrective action.

(2) Refusal to allow an office employee entry and inspection of a facility shall make the facility ineligible for fund participation. All monies previously paid to the owner or operator of the facility shall be repaid to, or recovered by, the fund.

(3)(a) After April 1, 1999, office personnel shall be present on site during all tank removal activities, except as provided in paragraphs (d) and (e) of this subsection;

(b) An owner or operator shall contact the office, by certified mail, to schedule a date to have a field auditor on site during tank system removal activities. The certified mail notice shall be received at least fourteen (14) days prior to commencement of the removal;

(c) If the field auditor cannot be present on site on the day scheduled by the notice sent as required in paragraph (b) of this subsection, he may, by written notice, require the owner or operator to reschedule the removal to a proposed date. This notice must be mailed by the office no later than ten (10) days prior to the date scheduled by the owner;

(d) If the field auditor fails to issue notice to reschedule the tank removal, or is not present on the day set by the notice, the removal may proceed without penalty; and

(e) This provision shall not apply to emergency removals ordered by the cabinet.

(4)(a) Office personnel may collect soil or water samples and shall have full access to all areas or wells to collect such samples. Office personnel may require the owner or operator to split samples with the office for analytical testing. Failure to allow sample collection, or to split samples, shall make the facility ineligible for fund participation.

(b) If analytical results taken by the office differ significantly from the analytical results submitted by the applicant, the office may require the applicant to resample the area or wells in question. Such resampling will not be reimbursed by the fund. Any remaining discrepancies in analytical results of the resampling will be resolved with the applicant having the burden to prove the validity of their analytical results.

(5) Venue for entry and inspection orders shall be in Franklin Circuit Court.

Section 12. Preapproval for Capital Equipment Rental or Purchase. (1) An owner or operator who has been directed by the cabinet to initiate remedial action that will require the purchase of equipment costing in excess of \$1,000, shall obtain prior approval of the purchase from the fund to be eligible for reimbursement. The request is to be submitted on the Capital Equipment Preapproval Purchase or Rental Request form;

(2) The office may approve the purchase or rental of remediation equipment and establish the amount to be reimbursed. The owner or operator may use the approved request as a guarantee of payment to a contractor performing corrective action to the extent of the amount approved by the office;

(3)(a) The request to purchase the equipment shall contain:

1. Three (3) bids obtained from a supplier or manufacturer of remedial equipment. If the certified contractor or certified company is included in the bid process, four (4) bids are required. Each bid shall contain a description of the equipment to be purchased and an anticipated salvage value provided by the supplier or manufacturer;

2. If three (3) bids can not be obtained, the owner shall provide written documentation of the manufacturers or suppliers decline to bid. A minimum of two (2) letters of declination shall be provided for each bid not submitted;

3. A cost benefit analysis substantiating purchase vs. rental of the equipment;

4. A copy of the warranty supplied by the equipment supplier or manufacturer;

5. Shipping, installation, training and start-up costs. These costs shall be separated from the actual equipment costs;

(b)1. The purchase of new equipment shall be considered by the fund at 100 percent of the invoice price for the most economical (least expensive life cycle cost) system bid received by the owner or operator;

2. Reimbursement shall be limited to the original purchase price less the anticipated salvage value, including applicable sales tax. The office will not reimburse for markup;

3. If the owner or operator elects to purchase the equipment with a greater life cycle cost, he shall be responsible for the amount above the most economical bid price will be the responsibility of the owner or operator;

4. All unscheduled maintenance costs covered by the new equipment warranty supplied by the equipment supplier or manufacturer are the responsibility of the owner or operator.

(c) If the owner or operator chooses to begin remediation prior to acceptance of the corrective action plan, three (3) bids must be submitted to the office prior to the purchase of the equipment, however, the cost of the equipment will not be reimbursable until such

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time as the cabinet accepts the corrective action plan. The bids will remain on file at the office until the corrective action plan is accepted. At that time, the owner or operator may request reimbursement for the purchase by submittal of a completed Capital Equipment Purchase or Rental form;

(4)(a) The request to purchase used or reconditioned equipment shall contain:

1. Three (3) bids for new equipment obtained from a supplier or manufacturer of remedial equipment. If the certified contractor or certified company wishes to be included in the bid process, four (4) bids are required. Each bid shall contain a description of the equipment and a salvage value provided by the supplier or manufacturer;

2. If the bids required by subsection (1) of this paragraph cannot be obtained, the owner shall provide written documentation of the manufacturer or suppliers decline to bid. A minimum of two (2) letters of declination must be provided for each bid not submitted;

3. The name, address and telephone number of the previous owner of the equipment proposed for installation;

4. A description of the equipment including pertinent specifications necessary to compare the proposed equipment with the bids for the new equipment;

5. The remaining economic life of the used equipment;

6. A projected salvage value for the used or reconditioned equipment after the proposed usage;

7. Shipping, installation, training and start-up costs. These costs shall be separated from the actual equipment costs;

(b) The purchase of used or reconditioned equipment will be reimbursed at a lump sum rate of the sum of the purchase plus a maximum of fifteen (15) percent markup less the anticipated salvage value, not to exceed the reimbursement ceilings that follow. Reimbursement for the purchase, including markup, of used equipment shall not exceed sixty-five (65) percent of the most economical new system bid received by the owner or operator and submitted to the office for consideration. The economic life of reconditioned equipment shall be considered to be the same as new equipment. Reimbursement for the purchase of reconditioned equipment, including markup, shall not exceed eight (80) percent of the most economical new system bid received by the owner or operator and submitted to the office for consideration. Reimbursement will not be considered for parts and labor associated with unscheduled maintenance or equipment component replacement for the duration of the expressed limited warranty period specified by the supplier and or manufacturer or for 180 days whichever is greater;

(5) Rental of remediation equipment may be approved by the office. This option may be suitable in circumstances where a lengthy remediation is not anticipated. The fund will only reimburse for the actual usage of the equipment. At no time will the rental rate exceed the purchase price. Usage is considered to be the actual active utilization of the remediation equipment and does not include idle equipment maintained at a fund covered facility for the convenience of the contractual parties. The request to rent the equipment shall contain:

(a) Three (3) bids for new equipment obtained from a supplier or manufacturer of remedial equipment. If the certified contractor or certified company wishes to be included in the bid process, four (4) bids shall be submitted. Each bid shall contain a description of the equipment and a salvage value provided by the supplier or manufacturer;

(b) If three (3) bids cannot be obtained, the owner must provide written documentation of the manufacturer or suppliers decline to bid. A minimum of two (2) letters of declination must be provided for each bid not submitted;

(c) Shipping installation, training and start-up costs. These costs shall be separated from the actual equipment.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Application for Assistance (October, 1998), PSTEAF #2;

(b) Claim Request (October, 1998), PSTEAF #3;

(c) Invoice Listing (July 1996), PSTEAF #4;

(d) Soil Disposal/Treatment Claim Request, (October 1998), PSTEAF #9; and

(e) Capital Equipment Purchase and Rental Request, (October

1998), PSTEAF #10.

(2) This material may be inspected and obtained at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RONALD B. MCCLOUD, Secretary
ROBERT E. NICKEL, Executive Director
DAVID B. WICKER, ESQ., Staff Counsel

APPROVED BY AGENCY: June 23, 1999

FILED WITH LRC: June 30, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 24, 1999 at 1 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 August 17, 1999, five working 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, fax (502) 564-0094.

REGULATORY IMPACT ANALYSIS

Agency contact: David B. Wicker

(1) Type and number of entities affected: The amended regulation will affect approximately 15,000 facilities with underground storage tanks containing petroleum products.

(a) Direct and indirect costs or savings to those affected:

1. First year: The tank owners or operators are financially responsible for \$500, \$2,500 or \$12,500 depending on the number of tanks, rather than \$1,000,000 of financial responsibility for remediation of releases from underground petroleum storage tanks. The amended regulation will no longer reimburse for the cost of tank system removals. That cost will be borne by the applicant.

2. Continuing costs or savings: Tank owners or operators will continue to experience the cost and savings outlined above savings include the cost of remediation and third party liability expenses.

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 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 FY 97 administrative budget was 1.45 million dollars. The Fund expects cost to increase as a result of the need to hire new field auditors and contracting to perform financial audits

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 approximately 22 new staff members will be added.

(b) Reporting and paperwork requirements: The Fund will be required to collect, review, maintain, and process claim forms. The Fund will provide eligible entities with state certification of financial assistance.

(3) Assessment of anticipated effect on state and local revenues: See fiscal note on local government.

(4) Assessment of alternative methods: reasons why alterna-

tives were rejected: House Bill 282 required these amendments. Additional changes were made to improve the efficiency of claims processing.

Alternative:

1. Less stringent: The Fund cannot be less stringent than the statute allows. Being less stringent would cause undue delays in the processing and payment of claims.

2. More stringent: The Fund cannot be more stringent than the statute allows. More stringent standards would cause fewer reimbursements and defeat the statutory goal of assisting the owners and operators of petroleum storage tanks.

3. Present proposal: The amended regulation contains the claims procedures to be followed by owners or operators eligible to participate in the Fund. These procedures outline what cost are eligible and provide the proper balance of oversight and usability.

(5) Geographical and environmental impact:

(a) Geographical: The effect of this regulation will be equal through all geographic regions of the state, as all areas have petroleum storage tanks. More populated areas will likely contain more tanks.

(b) Environmental: The effect of this regulation is to provide reimbursement mechanisms for payments up to one million dollars for corrective action and 1 million dollars for third-party liability for releases from petroleum storage tanks. A positive effect on the environment is expected as tank owners who were not financially able to remediate their sites will have assistance.

(6) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplication: There is no statute, administrative regulations, or government policy in conflict with the amended regulation

(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: The amended regulation conforms to the statute and increases the fund's ability to protect its resources and provide more money to the regulated community.

(9) Any additional information or comments: There is no additional information.

(10) Tiering statement: Was tiering applied: No, the regulation applies the same procedures to all applicants. This is seen as fair and results in the same cost being eligible or noneligible for all parties.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 CFR 280 Subpart H requires the owner or operator of petroleum storage tanks to demonstrate financial ability to caused by a petroleum release to the environment.

2. State compliance standards. There are no standards in addition to the Federal standards.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR 280 subpart details the standards and compliance dates.

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 government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This regulation will affect a local government or a division of local government that owns or operates underground petroleum storage

tanks.

3. State the aspect or service of local government to which this administrative regulation relates. Any service provided by the local government which involves the storage of motor fuel in underground storage tanks.

4. How does this administrative regulation affect the local government or any service it provides? This regulation will impose no different claim procedure from that imposed on a non-governmental entity.

JUSTICE CABINET Department of State Police (Amendment)

502 KAR 31:020. Sex Offender Registration System.

RELATES TO: KRS 17.510, 17.520, 17.530

STATUTORY AUTHORITY: KRS 15A.160, 17.080, 17.500, 17.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 17.080 provide that the Secretary of the Justice Cabinet may promulgate such administrative regulations as are necessary to properly administer the cabinet. KRS 17.510 and federal law 42 USC 1407, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, requires the Justice Cabinet to develop and implement a Sex Offender Registration System. This administrative regulation establishes the definitions, defines the processes, and establishes the forms necessary for the administration of the Sex Offender Registration System.

Section 1. Definitions. (1) "Authorizing witness" means an official identified in KRS 17.510(3), (4), and (5).

(2) "Cabinet" means the Justice Cabinet.

(3) "Department" means the Department of State Police.

(4) "LINK" means the Law Enforcement Information Network of Kentucky.

(5) "NCIC" National Crime Information Computer.

(6) "SORS" means the Sex Offender Registration System.

(7) "Sex offender information" means the specific information set forth in KRS 17.500(3) and shall include:

(a) The date of release from custody;

(b) Maximum date of sentence or supervision, whichever is longer;

(c) Date of registry expiration;

(d) Name of person completing the form, if registrant is assisted;

(e) Office phone number of the releasing entity;

(f) Signature of the registrant;

(g) Signature of the authorizing witness; [and]

(h) The date the form is signed;

(i) Fingerprints; and

(j) Photograph.

[(5) "SORS" means the Sex Offender Registration System.]

Section 2. Sex Offender Duty to Register Notification Form. (1) A person as described in KRS 17.510 shall provide the information required by KRS 17.500(3), 17.510 and this administrative regulation on the Sex Offender Duty to Register Notification Form #JC-4.

(2) Completion of Sex Offender Duty to Register Notification Form #JC-4.

(a) Probation and parole shall complete the Notification Form #JC-4 for the sentencing court.

(b) A person defined in KRS 17.510 shall, in the presence of the sentencing judge, sign the Notification Form #JC-4 in the "defendant's signature" block, in ink.

(c) A copy of the completed form shall be provided to the offender.

Section 3. SORS Registration Forms. A person described in KRS 17.510 shall provide the information required by KRS 17.500(3), 17.510 and this administrative regulation on one (1) of the following sex offender registry entry forms:

(1) Three (3) Sex Offender Registry Entry Forms have been

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established:

(a) Sex Offender Registry Entry Form is to be completed by all persons required to register pursuant to KRS 17.510(2) or (3).

(b) Sex Offender Registry Entry Form is to be completed by all persons required to register pursuant to KRS 17.510(6).

(c) Sex Offender Registry Entry Form is to be completed by all persons required to register pursuant to KRS 17.510(7).

(2) Completion of Sex Offender Registry Entry Registration Form.

(a) The Entry Form shall be completed either in the presence of or by the authorizing witness.

(b) In the presence of the authorizing witness, the offender shall read the Entry Form.

(c) The offender shall sign the Entry Form in the "signature of offender" block of the form in ink.

(d) The authorizing witness shall sign the Entry Form in the "authorizing witness" block of the Entry Form.

(e) The authorizing witness shall mail one (1) copy of the completed Entry Form to the department on the day the form is completed.

(3) An Entry Form shall not be considered complete if:

(a) It does not contain the information required by KRS 17.500(3) and this administrative regulation; or

(b) It contains erroneous or false information; or

(c) An item on the Entry Form cannot be read or understood; or

(d) The offender or authorizing witness fails to sign the appropriate block.

(4) If the department determines that an Entry Form is incomplete pursuant to the provisions of this administrative regulation, the department shall notify the submitting authorizing witness, without entry into the SORS, of:

(a) The reason the Entry Form was determined to be incomplete; and

(b) The action required to complete the Entry Form prior to inclusion to the SORS.

(5) Upon notification of the corrected deficiencies as described above, the department shall enter the record into the SORS, LINK and NCIC.

Section 4. Sex Offender Registry Modification Form. A person as described in KRS 17.510 shall provide any change in the information required by KRS 17.500(3), KRS 17.510 and this administrative regulation on the Sex Offender Registry Modification Form.

(1) Completion of Sex Offender Registry Modification Form.

(a) The Modification Form shall be completed either in the presence of or by the authorizing witness.

(b) In the presence of the authorizing witness, the offender shall read the Modification Form.

(c) The offender shall sign the Modification Form in the "signature of offender" block of the form, in ink.

(d) The authorizing witness shall sign the Modification Form in the "authorizing witness" block of the Modification Form.

(e) The authorizing witness shall mail one (1) copy of the completed Modification Form to the department on the day the form is completed.

(2) A Modification Form shall not be considered complete if:

(a) It does not contain the information required by KRS 17.500(3) and this administrative regulation; or

(b) It contains erroneous or false information; or

(c) An item on the form cannot be read or understood; or

(d) The offender or authorizing witness fails to sign in the appropriate block.

(3) If the department determines that a Modification Form is incomplete pursuant to the provisions of this administrative regulation, the department shall notify the submitting authorizing witness of:

(a) The reason the Modification Form was determined to be incomplete; and

(b) The action required to properly complete the Modification Form before that information may be included in the SORS.

(4) Upon notification of the corrected deficiencies, as described above, the department shall enter the corrected information into that offender's SORS record, LINK and NCIC.

Section 5. Sex Offender Registry Information Verification Form. A person sentenced as described in KRS 17.510 shall verify the accuracy of the information contained in the SORS on the Sex Offender Registry Information Verification Form #SOR 1.

(1) Annually, the department shall mail, no later than fourteen (14) days prior to the anniversary date of each "low and moderate" risk registrant, a Verification Form #SOR 1 to the last known address of the registrant.

(2) Quarterly, the department shall mail a Verification Form #SOR1 to the last known address of each "high risk" registrant.

(3) Completion of Sex Offender Registry Information Verification Form #SOR 1. A person defined in KRS 17.510 shall:

(a) Complete the Verification Form #SOR 1, and sign the Verification Form #SOR 1 in the "registrant signature" block, in ink; and

(b) Shall mail the completed Verification Form #SOR 1 to the department on the day the form is completed.

(4) [(3)] A Verification Form #SOR 1 shall not be considered complete if:

(a) It does not contain the information required by KRS 17.500(3) and this administrative regulation; or

(b) It contains erroneous or false information; or

(c) An item on the form cannot be read or understood; or

(d) The registrant fails to sign in the appropriate block.

(5) [(4)] If the department determines that a Verification Form #SOR 1 is incomplete pursuant to the provisions of this administrative regulation, the department shall return the form to the submitting registrant notifying the submitting registrant of:

(a) The reason the Verification Form #SOR 1 was returned; and

(b) The action required by the registrant to properly complete the Verification Form #SOR 1 prior to validation thereof.

Section 6. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) The Sex Offender Duty to Register Form #JC-4;

(b) The Sex Offender Registry Entry Forms #P:225; #P:227; and #228;

(c) The Sex Offender Registry Modification Form # P:226; and

(d) The Sex Offender Registry Information Verification Form #SOR 1.

(2) This material may be inspected, copied, or obtained at the Department of State Police, Data Processing Section, 1250 Louisville Road, Frankfort Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBERT F. STEPHENS, Secretary

PAMELA J. MURPHY, Deputy Secretary

BARBARA W. JONES, General Counsel

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on August 23, 1999 at 10 a.m., at 403 Wapping Street, 2nd Floor Bush Building, Frankfort, Kentucky in the Justice Cabinet's conference room. Individuals interested in being heard at this hearing shall notify this agency in writing by August 16, 1999, 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this 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: Barbara W. Jones, Justice Cabinet, 403 Wapping Street, 2nd Floor Bush Building, Frankfort, Kentucky 40601, phone: (502) 564-3279, Fax (502) 564-5244.

REGULATORY IMPACT ANALYSIS

Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 235 probation and parole officers, 5 data processing staff of the Kentucky State Police

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and Department of Information Systems, the Administrative Office of the Courts, all circuit clerks, the judiciary and the existing 630 registrants that reside in the Sex Offender Registry as well as the undetermined number of sex offenders that will be registered in the future.

(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 are 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: Analysis, program development, and other technical tasks required by federal or state legislative mandates.

(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 is the funds budgeted for this 1994 - 1996 biennium. N/A

(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

(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 of proposed regulation if in conflict: None

(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 regulation applies equally to all those individuals that will be listed in the Sex Offender Registry.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate for the filing of this emergency amendment is found at 42 USC Section 14071 and by the Federal Register 69 FR 69652, December 17, 1998. The United States Justice Department monitors compliance with this statute and the guidelines promulgated to implement Megan's Law and the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act ("The Wetterling Act"). The Pam Lynchner Sexual Offender Tracking and Identification Act of 1996, and Section 115 of the General Provisions of Title I of the Departments of Commerce, Justice, and State, The Judiciary and related Agencies Appropriations Act (The "CJSA") amended section 42 USC 14071 which contains the "Wetterling Act" and "Megan's Law". Kentucky must file a final report with the United States Justice Department no later than July 12, 1999 to establish compliance with the federal statutes and guidelines.

2. State compliance standards. The state compliance standards are found in KRS 17.500 through 17.991 and 502 KAR 31:020.

3. Minimum or uniform standards contained in the federal mandate. The proposed amendment contains no 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.

5. Justification for the imposition of the stricter requirements, or additional or different responsibilities or requirements. This amendment does not impose stricter standards, responsibilities or requirements.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:021. Planned Fifth-year Program.

RELATES TO: KRS 157.390, 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028 and 161.030 vests authority for the issuance and renewal of certification for all school personnel in the Education Professional Standards Board. This administrative regulation establishes the standards for the Fifth-year Program for certificate renewal.

Section 1. (1) The standards required for the renewal of a teaching certificate shall require completion of:

(a) The continuing education alternative plan as defined in 704 KAR 20:022; or

(b) Plan I or Plan II described in this administrative regulation and in keeping with one (1) or more of the following purposes:

1. To improve the professional competency for the position covered by the initial teaching certificate;

2. To extend the scope of professional competency to a certification area not covered by the initial certificate; or

3. To obtain preparation-certification required for professional advancement to a higher position.

(2) Upon application by the candidate, the teacher education institution shall verify the completion of the Fifth-year Program to the Division of Certification.

Section 2. (1) Plan I Fifth-year Program shall require the completion of a master's degree from a college or university which meets the standards established by the Education Professional Standards Board in 704 KAR Chapter 20:

(a) In a professional education specialty for which certification is issued;

(b) In an academic subject for which teacher certification is issued; or

(c) In professional education with emphasis in an academic subject for which certification is issued.

(2) The master's degree shall be consistent with the experienced teacher standards established by the Education Professional Standards Board in 704 KAR 20:730 [~~Section 4 of this administrative regulation~~] or with standards established by the Education Professional Standards Board in 704 KAR Chapter 20 for a particular professional education specialty.

Section 3. Plan II Fifth-year Program shall require thirty-two (32) semester hours of graduate level coursework earned beyond the bachelor's degree and the four (4) year program of teacher preparation in accordance with the following guidelines:

(1) The Fifth-year Program shall be planned individually with each candidate by a teacher education institution approved for offering graduate programs of teacher preparation.

(2) The Fifth-year Program shall be a major component of the candidate's professional growth plan and shall be consistent with the experienced teacher standards established by the Education Professional Standards Board in 704 KAR 20:730 [~~Section 4 of this administrative regulation~~] or with standards established by the Education

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Professional Standards Board in 704 KAR Chapter 20 for a professional education specialty.

(3) The Fifth-year Program shall relate to the initial classroom teaching certificate or to an additional classroom teaching certificate.

(4) The grade point standing for the thirty-two (32) semester hour program shall not be less than is required at the planning institution for a teacher education graduate.

(5) Professional development in lieu of up to twelve (12) semester hours of the college credit shall be approved as part of Plan II Fifth-year Program if requested by the applicant using the following guidelines:

(a) Twenty-four (24) clock hours of professional development shall equal one (1) semester hour;

(b) The candidate shall seek and obtain prior approval of the institution for the professional development activities;

(c) The application for approval shall identify the specific professional development activities, and the action plan to achieve one (1) or more goals of the professional growth plan identified in subsection (2) of this section;

(d) Upon completion of the professional development activities, the candidate shall submit to the institution a report of the activities which shall include an evaluation of the experiences and a follow-up plan for implementing the professional development; and

(e) The institution shall keep a record of the professional development completed by each candidate for the Fifth-year Program.

Section 4. New Teacher Standards. An approved preparation program for initial certification to be completed at the master's degree level shall be consistent with the new teacher standards as established in 704 KAR 20:730 [20:670].

[Section 5. Experienced Teacher Standards. A fifth-year program plan other than a plan in a professional education specialty for which the Education Professional Standards Board has established specific standards in 704 KAR Chapter 20 shall be consistent with the following experienced teacher standards:

(1) Experienced Teacher Standard I. Demonstrates professional leadership. The teacher provides professional leadership within the school, community, and education profession to improve student learning and well-being.

(2) Experienced Teacher Standard II. Demonstrates knowledge of content. The teacher demonstrates content knowledge within own area of certification and application to other areas, content areas, and certification areas.

(3) Experienced Teacher Standard III. Designs and plans instruction. The teacher designs and plans instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge.

(4) Experienced Teacher Standard IV. Creates and maintains learning climate. The teacher creates a learning climate that supports the development of student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge.

(5) Experienced Teacher Standard V. Implements and manages instruction. The teacher introduces, implements, and manages instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge.

(6) Experienced Teacher Standard VI. Assesses and communicates learning results. The teacher assesses learning and communicates results to students and others with respect to student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge.

(7) Experienced Teacher Standard VII. Reflects and evaluates teaching and learning. The teacher reflects on and evaluates teaching and learning.

(8) Experienced Teacher Standard VIII. Collaborates with colleagues, parents, and others. The teacher collaborates with colleagues, parents, and other agencies to design, implement, and support learning programs that develop student abilities to use communi-

cation skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge.

(9) Experienced Teacher Standard IX. Engages in professional development. The teacher evaluates own overall performance in relation to Kentucky's learner goals as established in KRS 158.6451 and implements a professional development plan.]

TIM DEDMAN, Chair

MARCIA SEILER, Attorney

APPROVED BY AGENCY: June 30, 1999

FILED WITH LRC: July 6, 1999 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on August 24, 1999, at 10 a.m. in the 1st Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, five work days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. 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: Dr. Susan Leib, Associate Commissioner, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact person: Marcia Seiler

(1) Type and number of entities affected: Teacher applicants seeking certification in Kentucky from the Education Professional Standards Board; teachers seeking renewal of their certificate, rank change, or additional certification; and teacher training institutions seeking state accreditation from the Education Professional Standards Board.

(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 promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and 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: 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternative were rejected: Removal of the Experienced Teacher Standards from this regulation and their concurrent placement in a separate administrative regulation (704 KAR 20:730, Standards for certified school personnel) will both emphasize their importance and allow teachers

and administrators to more easily reference these standards.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas 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: 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: The removal of the Experienced Teacher Standards from this regulation is a technical amendment to avoid duplication with the new administrative regulation described in Section (7) above.

(11) TIERING: Is tiering applied? No. Certification requirements are the same for all applicants.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Amendment)

704 KAR 20:305. Written examination prerequisites for teacher certification.

RELATES TO: KRS 161.028[(1)(a), (k)], 161.030[(3), (4)]

STATUTORY AUTHORITY: KRS 161.028[(1)(a), (k)], 161.030[(3), (4)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.030[(3)] requires that a new teacher, including an out-of-state teacher with less than two (2) years experience, successfully complete appropriate assessments prior to initial certification in Kentucky. KRS 161.030[(3) and (4)] require the Education Professional Standards Board to select the tests, determine the passing scores, establish a reasonable fee for the assessments, and establish a procedure for a person to repeat a test and be informed of his strengths and weaknesses in each area. This administrative regulation establishes the written examination prerequisites for teacher certification, including the required tests, the minimum acceptable level of achievement on each test, the fee for each test, and the procedure for retaking the test.

Section 1. A teacher applicant for certification shall successfully complete the appropriate written tests identified in this administrative regulation prior to initial Kentucky certification. A score on a test completed more than five (5) years prior to application for certification shall not be acceptable.

Section 2. Until January 14, 1999 these specialty tests and passing scores shall be required of each new teacher applicant and a teacher seeking an additional certificate as identified in this section.

(1) An applicant for interdisciplinary early childhood education, birth to primary, certification shall take an Education Professional Standards Board test for interdisciplinary early childhood, with a passing score of 150.

(2) An applicant for elementary certification shall take Elementary Education: Curriculum and Instruction (10011) with a passing score of 143.

(3) An applicant for middle school certification shall ~~take Education in the Elementary School Test (20010) with a passing score of 510 through the effective date of this administrative regulation. After that date, an applicant shall~~ take two (2) middle school specialty tests based on the applicant's specialty with no passing scores as identified in this subsection:

(a) Middle School Mathematics (0069) - no passing score;

(b) Middle School Science (0439) - no passing score;

(c) Middle School English (0049) - no passing score;

(d) Middle School Social Studies (0089) - no passing score.

(4) An applicant for certification for teacher of exceptional children in communication disorders, learning behavior disorders, hearing or

visual impaired, or moderate and severe disabilities shall take each specialty test based on the applicant's specialty with the corresponding passing score as identified in this subsection:

(a) Communication disorders:

1. Application for Core Principal Across Categories of Disabilities (10352) - 127; and

2. Speech Language Pathology (10330) - 450;

(b) Learning behavior disorder:

1. Application of Core Principles Across Categories of Disabilities (10352) - 127; and

2. Teaching Student with Behavioral Disorders/Emotional Disturbances (20371) - 147; ~~or~~

(c) Moderate and severe disabilities:

1. Application of Core Principles Across Categories of Disabilities (10352) - 127; and

2. Teaching Students with Mental Retardation (20321) - 139.

~~[(5) An applicant for certification for teacher of exceptional children with hearing disorders and visual disorders shall take Special Education test (10350) with a passing score of 500 through the effective date of this administrative regulation. After that date, an applicant shall take specialty tests based on the applicant's specialty with a corresponding passing score as identified in this subsection:]~~

(d) [(a)] Hearing impaired:

1. Application for Core Principal Across Categories of Disabilities (10352) - 127; and

2. Education of Deaf and Hard of Hearing Students (0271) - 156;

(e) [(b)] Visually impaired:

1. Application for Core Principal Across Categories of Disabilities (10352) - 127; and

2. Teaching Students with Visual Impairments (0280) - no passing score.

(5) [(6)] An applicant for certification at the secondary level shall take each specialty test corresponding to the teaching area or major with the passing score identified in this subsection. An applicant whose teaching specialty is in a major for which no appropriate specialty test is available shall take the specialty test corresponding to the minor teaching specialty.

(a) Biology:

1. Biology: Content Knowledge Part 1 (20231) - 139; and

2. Biology: Content Essays (30233) - 139;

(b) Chemistry:

1. General Science: Content Knowledge Part 2 (10432) - 150; and

2. Either:

a. Chemistry: Content Knowledge (20241) - 144; or

b. Physics: Content Knowledge (10261) - 141;

(c) Dramatics:

1. English Language and Literature: Content Knowledge (10041) - 138; and

2. English Language, Literature and Composition Essays (20042) - 135;

(d) Dramatics-speech:

1. English Language and Literature: Content Knowledge (10041) - 138; and

2. English Language, Literature and Composition Essays (20042) - 135;

(e) English:

1. English Language and Literature: Content Knowledge (10041) - 138; and

2. English Language, Literature and Composition Essays (20042) - 135;

(f) History:

1. Social Studies: Content Knowledge (10081) - 146; and

2. Social Studies: Interpretation of Materials (20083) - 150;

(g) History - political science:

1. Social Studies: Content Knowledge (10081) - 146; and

2. Social Studies: Interpretation of Materials (20083) - 150;

(h) Mathematics:

1. Mathematics: Content Knowledge (10061) - 141; and

2. Mathematics: Proofs, Models, and Problems (20063) - 141;

(i) Mathematics - physical science: select from either:

1. Mathematics Test (10060) 500; or

2. Chemistry, Physics, and General Science Test (10070) - 510;

(j) Physics:

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1. General Science: Content Knowledge, Part 2 (10432) - 150; and
2. Either:
 - a. Chemistry: Content Knowledge (20241) - 144; or
 - b. Physics: Content Knowledge (10261) - 141;
- (k) Physical science:
 1. General Science: Content Knowledge Part 2 (10432) - 150; and
 2. Either:
 - a. Chemistry: Content Knowledge (20241) - 144; or
 - b. Physics: Content Knowledge (10261) - 141;
 - (l) Political science:
 1. Social Studies: Content Knowledge (10081) - 146; and
 2. Social Studies: Interpretation of Materials (20083) - 150;
 - (m) Science: select from either:
 1. Biology and General Science Test (10030) - 550; or
 2. Chemistry, Physics and General Science Test (10070) - 510;
 - (n) Speech:
 1. English Language and Literature: Content Knowledge (10041) - 138; and
 2. English Language, Literature and Composition Essays (20042) - no passing score.
- (6) ~~[(7) Except as provided in subsection (8) of this section,]~~ An applicant for certification in all grades in the following specialty areas shall take the specialty test or tests with the passing score as identified in this subsection.
 - (a) Art:
 1. Content Knowledge (10133) - 139; and
 2. Art Making (20131) - 154 [no-passing score];
 - (b) French:
 1. French: Content Knowledge (10173) - 144; and
 2. French: Productive Language Skills (20171) - 151 [no-passing score];
 - (c) German: German: Content Knowledge (20181) - 143;
 - (d) Health: Health Education (10550) - 550;
 - (e) Latin: Latin (0600) - 530;
 - (f) Music:
 1. Music: Content Knowledge (10113) - 137; and
 2. Music: Concepts and Processes (30111) - 140 [no-passing score];
 - (g) Physical education:
 1. Physical education: Content Knowledge (10091) - 152; and
 2. Physical education: Movement Forms-Analysis and Design (30092) - 135;
 - (h) Spanish:
 1. Spanish Content Knowledge (10191) - 145; and
 2. Spanish: Productive Language Skills (20192) - 156;
 - (i) School media librarian: Library Media Specialists (10310) - 590.
- ~~[(8) After the effective date of this administrative regulation, tests designated with no-passing scores in subsection (7) of this section shall have the following passing scores:~~
 - (a) Art Making (20131) - 154;
 - (b) French: Productive Language Skills (20171) - 151;
 - (c) Music: Concepts and Processes (30111) - 140;
- (7) ~~[(9)]~~ An applicant for certification to teach in grades five (5) through twelve (12) with one (1) or more of the following specializations shall take the specialty tests with the passing scores as identified in this subsection:
 - (a) Agriculture: Agriculture (10700) - 530;
 - (b) Business and Marketing Education - Business Education (10100) - 570;
 - (c) Comprehensive Business - Business Education (10100) - 570;
 - (d) Distributive Education - Business Education - 570;
 - (e) Family and Consumer Sciences - Home Economics Education (10120) - 540;
 - (f) Industrial Education - Technology Education (10050) - 570.
- ~~[(10)]~~ An applicant who holds one (1) of the certificates listed in this section shall qualify for additional certification in English as a second language by completing Teaching English as a Second Language (0360) - 550.
- ~~[(11) Specialty tests for an applicant who successfully completes a new test identified in subsections (3)(a) through (d), (5)(a) and (b), (7), and (10) of this section prior to October 1, 1998, shall be accepted for the issuance of the corresponding certification. Specialty tests re-~~

quired prior to October 1, 1998, shall be accepted for the issuance of the corresponding certification for a teacher applicant who successfully completed the tests prior to this date and apply for certification no later than September 30, 1999.]

Section 3. After January 14, 1999 these specialty tests and passing scores shall be required of each new teacher applicant and a teacher seeking an additional certificate as identified in this section.

(1) An applicant for interdisciplinary early childhood education, birth to primary, certification shall take an Education Professional Standards Board test for interdisciplinary early childhood, with a passing score of 150.

(2) An applicant for elementary certification shall take Elementary Education: Curriculum and Instruction (10011) with a passing score of 163.

(3) An applicant for middle school certification shall take two (2) middle school specialty tests based on the applicant's specialty with passing scores as identified in this subsection:

(a) Middle School Mathematics (0069) - 143;

(b) Middle School Science (0439) - 139;

(c) Middle School English (0049) - 153;

(d) Middle School Social Studies (0089) - 144

(4) An applicant for certification for teacher of exceptional children in Communication Disorders, Learning Behavior Disorders, Hearing or Visual Impaired, or Moderate and Severe Disabilities shall take each specialty test based on the applicant's specialty with the corresponding passing score as identified in this subsection:

(a) Communication disorders:

1. Application for Core Principles Across Categories of Disabilities (10352) - 146; and

2. Speech Language Pathology (10330) - 600;

(b) Learning behavior disorders:

1. Application of Core Principles Across Categories of Disabilities (10352) - 146; and

2. Teaching Student with Behavioral Disorders/Emotional Disturbances (20371) - 157;

(c) Moderate and severe disabilities:

1. Application of Core Principles Across Categories of Disabilities (10352) - 146; and

2. Teaching Students with Mental Retardation (20321) - 146;

(d) Hearing Impaired:

1. Application for Core Principles Across Categories of Disabilities (10352) - 146; and

2. Education of Deaf and Hard of Hearing Students (0271) - 167;

(e) Visually Impaired:

1. Application for Core Principles Across Categories of disabilities (10352) - 146; and

2. Teaching Students with Visual Impairments (0280) - 658;

(5) An applicant for certification at the secondary level shall take each specialty test corresponding to the teaching area or major with the passing score identified in this subsection. An applicant whose teaching specialty is in a major for which no appropriate specialty test is available shall take the specialty test corresponding to the minor teaching specialty.

(a) Biology:

1. Biology: Content Knowledge Part 1 (20231) - 156; and

2. Biology: Content Essays (30233) - 141;

(b) Chemistry:

1. General Science: Content Knowledge Part 2 (10432) - 150;

and

2. Either:

a. Chemistry: Content Knowledge (20241) - 144; or

b. Physics: Content Knowledge (10261) - 141;

(c) Dramatics:

1. English Language and Literature: Content Knowledge (10041) - 160; and

2. English Language, Literature and Composition Essays (20042) - 154;

(d) Dramatics-speech:

1. English Language and Literature: Content Knowledge (10041) - 160; and

2. English Language, Literature and Composition Essays

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(20042) - 154;

(e) English:

1. English Language and Literature: Content Knowledge (10041) - 160; and

2. English Language, Literature and Composition Essays

(20042) - 154;

(f) History:

1. Social Studies: Content Knowledge (10081) - 151; and

2. Social Studies: Interpretation of Materials (20083) - 155;

(g) History - political science:

1. Social Studies: Content Knowledge (10081) - 151; and

2. Social Studies: Interpretation of Materials (20083) - 155;

(h) Mathematics:

1. Mathematics: Content Knowledge (10061) - 141; and

2. Mathematics: Proofs, Models, and Problems (20063) - 141;

(i) Mathematics - physical science: select from either:

1. Mathematics Test (10060) - 500; or

2. Chemistry, Physics, and General Science Test (10070) - 510;

(j) Physics:

1. General Science: Content Knowledge, Part 2 (10432) - 150;

and

2. Either:

a. Chemistry: Content Knowledge (20241) - 144; or

b. Physics: Content Knowledge (10261) - 141;

(k) Physical science:

1. General Science: Content Knowledge Part 2 (10432) - 150;

and

2. Either:

a. Chemistry: Content Knowledge (20241) - 144; or

b. Physics: Content Knowledge (10261) - 141;

(l) Political science:

1. Social Studies: Content Knowledge (10081) - 151; and

2. Social Studies: Interpretation of Materials (20083) - 155;

(m) Science: select from either:

1. Biology and General Science Test (10030) - 550; or

2. Chemistry, Physics and General Science Test (10070) - 510;

(n) Speech:

1. English Language and Literature: Content Knowledge (10041)

- 160; and

2. English Language, Literature and Composition Essays

(20042) - 154.

(6) An applicant for certification in all grades in the following specialty areas shall take the specialty test or tests with the passing score as identified in this subsection.

(a) Art:

1. Content Knowledge (10133) - 154; and

2. Art Making (20131) - 154;

(b) French:

1. French: Content Knowledge (10173) - 159; and

2. French: Productive Language Skills (20171) - 167;

(c) German: German: Content Knowledge (20181) - 157;

(d) Health: Health Education (10550) - 623;

(e) Latin: Latin (0600) - 630;

(f) Music:

1. Music: Content Knowledge (10113) - 150; and

2. Music: Concepts and Processes (30111) - 146;

(g) Physical Education:

1. Physical Education: Content Knowledge (10091) - 152; and

2. Physical Education: Movement Forms-Analysis and Design

(30092) - 151;

(h) Spanish:

1. Spanish Content Knowledge (10191) - 160; and

2. Spanish: Productive Language Skills (20192) - 158;

(i) School Media Librarian: Library Media Specialists (10310) - 623.

(7) An applicant for certification to teach in grades five (5) through twelve (12) with one (1) or more of the following specializations shall take the specialty tests with the passing scores as identified in this subsection:

(a) Agriculture: Agriculture (10700) - 530;

(b) Business and Marketing Education - Business Education (10100) - 584;

(c) Comprehensive Business - Business Education (10100) -

584;

(d) Distributive Education - Business Education - 584;

(e) Family and Consumer Sciences - Home Economics Education (10120) - 570;

(f) Industrial Education - Technology Education (10050) - 600.

(8) An applicant who holds one (1) of the certificates listed in this section shall qualify for additional certification in English as a Second Language by completing Teaching English as a Second Language (0360) - 620.

Section 4. (1) An applicant for initial certification may take the Praxix II: Subject Assessments and Specialty Area Tests on a date established by the Educational Testing Service for national administration or on a date established by the Education Professional Standards Board for special administration.

(2) An applicant shall authorize test results to be forwarded by the Educational Testing Service to the Kentucky Department of Education and to the appropriate teacher preparation institution.

(3) Public announcement of testing dates and locations shall be issued sufficiently in advance of testing dates to permit advance registration as required by the Educational Testing Service. An applicant shall seek information regarding the dates and location of the tests and make application for the appropriate examination prior to the deadline established and sufficiently in advance of anticipated employment to permit test results to be received by the Department of Education and processed in the normal certification cycle.

Section 5. [4:] An applicant shall pay the appropriate examination fee for each relevant test required to be taken, to the Educational Testing Service, publisher of the National Teacher Examinations, unless a lesser fee has been negotiated by the Department of Education. The fee for a specialty test developed by the Department of Education shall be equivalent to the current fee for the test administered by the Educational Testing Service.

Section 6. [5:] An applicant who fail to achieve at least the minimum score on the specialty examination appropriate to the teaching field may retake the test or tests during one (1) of the scheduled test administrations.

Section 7. [6:] The Education Professional Standards Board shall collect data and conduct analyses of the score and institutional reports provided by the Educational Testing Service to determine the impact of these tests and permit a review of this administrative regulation on an annual or biennial basis.

TIM DEDMAN, Chair

MARCIA SEILER, Attorney

APPROVED BY AGENCY: June 30, 1999

FILED WITH LRC: July 6, 1999 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on August 24, 1999, at 10 a.m. in the 1st Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, five work days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. 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: Dr. Susan Leib, Associate Commissioner, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact person: Patricia Hartanowicz

(1) Type and number of entities affected: All new teacher appli-

cants.

(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: New teacher applicants will save \$150 in assessment fees.

(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 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: 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: The assessment method is not being effected by this change in regulation.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas in which implemented and on Kentucky: Cost savings to teacher applicants as mentioned in 2a.

(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:

(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: Not applicable

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied. All teacher applicants within a specific content area are required to complete the same testing requirements.

**EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Amendment)**

704 KAR 20:670. Kentucky teaching certificates.

RELATES TO: KRS 158.6451, 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 requires that a teacher and other professional school personnel hold a certificate of legal qualifications for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. Additionally, KRS 161.028, requires a teacher education institution be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the Kentucky certification to be issued for classroom teaching positions and the new teacher standards for preparation and certification.

Section 1. Definitions. (1) "Approved program of preparation" means a program which has been approved by the Education Profes-

sional Standards Board for a specific certification or which has been approved for certification by the state education agency of another state.

(2) "Assessments" means the tests of knowledge and skills authorized by KRS 161.030.

(3) "Beginning teacher internship" means one (1) year of supervision, assistance, and assessment required by KRS 161.030.

(4) "Experienced teacher standards" means the standards established in 704 KAR 20:730 [20:021] that identify what an effective experienced teacher shall know and do.

(5) "New teacher standards for preparation and certification" means the standards that describe what a first-year teacher shall know and be able to do in an authentic teaching situation.

(6) "Professional teaching certificate" means the document issued to an individual upon successful completion of the beginning teacher internship and to an applicant for whom the testing and internship requirement is waived under KRS 161.030 based on preparation and experience completed outside Kentucky.

(7) "Provisional [Provision] teaching certificate" means the document issued to an individual for the duration of the beginning teacher internship program.

(8) "Statement of eligibility" means the document issued to an applicant upon completion of an approved program of preparation and successful completion of the assessments.

Section 2. Certificate Issuance. (1) A statement of eligibility for a provisional teaching certificate shall be issued to an applicant who has successfully completed:

(a) 1. A bachelor's degree; or

2. As required by Section 4(7)(e) and (8)(e) of this administrative regulation, a master's degree;

(b) An approved program of preparation; and

(c) The assessments corresponding to the certificate identified in Section 4 of this administrative regulation for which application is being made.

(2) Upon confirmation of employment in an assignment for the grade level and specialization identified on a valid statement of eligibility, a Provisional Teaching Certificate shall be issued for the duration of the beginning teacher internship established under KRS 161.030.

(3) Upon successful completion of the internship, a Professional Teaching Certificate shall be issued, valid for a four (4) year period.

Section 3. Certificate Renewal. (1) The renewal shall require completion of a fifth-year program of preparation which is consistent with:

(a) The experienced teacher standards established in 704 KAR 20:730 [20:021]; or

(b) The standards adopted by the Education Professional Standards Board for a particular professional education specialty and established in an applicable administrative regulation.

(2) The first five (5) year renewal shall require:

(a) Completion of a minimum of fifteen (15) semester hours of graduate credit applicable to the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration; or

(b) Completion of the professional development plan defined in 704 KAR 20:022, Section 4(2).

(3) The second five (5) year renewal shall require:

(a) Completion of the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration; or

(b) Completion of the professional development plan defined in 704 KAR 20:022, Section 4(1).

(4) Each subsequent five (5) year renewal shall require:

(a) Completion of three (3) years of successful teaching experience with continuing growth as documented in a portfolio; or

(b) Completion of at least six (6) semester hours of graduate credit related to the profession of teaching by September 1 of the year of expiration.

Section 4. Grade Levels and Specializations. Preparation for a certificate shall ensure that a teacher has the knowledge and skills for the instruction of all children including an intellectually gifted and talented child or a child with a disability; is proficient in the use of technology and in the instruction for multiage and multiability grouping; and has the knowledge and skills to implement the goals for the schools of

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the Commonwealth specified in KRS 158.6451. A teaching certificate shall be issued specifying one (1) or more of the following grade level and specialization authorizations:

(1) Interdisciplinary early childhood education, birth to primary, 704 KAR 20:084;

(2) Elementary school: primary through grade five (5) to include preparation in the academic disciplines taught in the elementary school;

(3)(a) Middle school: grades five (5) through nine (9) with two (2) middle school teaching fields to be selected from:

1. English and communications;
2. Mathematics;
3. Science; or
4. Social studies;

(b) Candidates who choose to simultaneously prepare for teaching in the middle school and for teaching exceptional children as provided in subsection (7) of this section shall be required to complete one (1) middle school teaching field;

(4) Secondary school: grades eight (8) through twelve (12) with one (1) or more of the following specializations:

- (a) English;
- (b) Mathematics;
- (c) Social studies;
- (d) Biological science; or
- (e) Physical science;

(5) Grades five (5) through twelve (12) with one (1) or more of the following specializations:

- (a) Agriculture;
- (b) Business and marketing education;
- (c) Family consumer science; or
- (d) Industrial technology;

(6) All grade levels with one (1) or more of the following specialties:

- (a) Art;
- (b) A foreign language;
- (c) Health;
- (d) Physical education;
- (e) Music; or
- (f) School media librarian;

(7) Grades primary through twelve (12) for teaching exceptional children and for collaborating with teachers to design and deliver programs for preprimary children, for one (1) or more of the following disabilities:

- (a) Learning and behavior disorders;
- (b) Moderate and severe disabilities, 704 KAR 20:251;
- (c) Teacher of deaf and hard of hearing;
- (d) Visually impaired; or
- (e) Communication disorders, valid at all grade levels for the instruction of exceptional children and youth with communication disorders, and requires a master's degree in communication;

(8) Endorsements to certificates identified in subsections (1) through (7) of this section, valid for all grade levels, for the following:

- (a) Computer science;
- (b) English as second language;
- (c) Gifted education;
- (d) Driver education; or
- (e) Reading and writing and requires a master's degree in reading.

Section 5. Additional Certification. A candidate who holds a certificate valid for classroom teaching shall qualify for additional certification upon:

(1) The recommendation of an approved institution of higher education, which shall include consideration of the performance standards; and

(2) The successful completion of each required Education Professional Standards Board assessment applicable to the additional certification being sought.

Section 6. [New Teacher Standards for Preparation and Certification. The approved program of preparation for each certification shall be designed to address the student academic expectations as provided by 703 KAR 4:060; to meet the content standards provided by 704 KAR 20:696; to prepare a candidate to teach children, including a

child from a culturally diverse background, and manage tasks identified in the following teacher performance standards:

(1) New Teacher Standard I, designs and plans instruction. The teacher designs and plans instruction and learning climates that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(2) New Teacher Standard II, creates and maintains learning climates. The teacher creates a learning climate that supports the development of student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(3) New Teacher Standard III, implements and manages instruction. The teacher introduces, implements, and manages instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(4) New Teacher Standard IV, assesses and communicates learning results. The teacher assesses learning and communicates results to students and others with respect to student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(5) New Teacher Standard V, reflects and evaluates teaching and learning. The teacher reflects on and evaluates specific teaching and learning situations and programs;

(6) New Teacher Standard VI, collaborates with colleagues, parents, and others. The teacher collaborates with colleagues, parents, and other community agencies to design, implement, and support learning programs that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(7) New Teacher Standard VII, engages in professional development. The teacher evaluates his overall performance with respect to modeling and teaching Kentucky's learning goals established in KRS 158.6451, refines the skills and processes necessary, and implements a professional development plan; and

(8) New Teacher Standard VIII, content knowledge. The teacher demonstrates a current and sufficient academic knowledge of certified content areas to develop student knowledge and performance in those areas.

Section 7.] Effective Dates. (1) The provisions for the issuance of a teaching certificate for each grade level and for each specialization identified in this administrative regulation shall become effective for all students admitted to the specific program of preparation beginning January 1, 1998.

(2) A candidate admitted prior to January 1, 1998, under one (1) or more of the following administrative regulations shall complete the program by September 1, 2000: 704 KAR 20:057, 20:070, 20:080, 20:095, 20:105, 20:115, 20:135, 20:145, 20:146, 20:159, 20:160, 20:161, 20:175, 20:180, 20:229, 20:230, 20:235, 20:255, 20:275, 20:280, 20:290, 20:340, 20:500, 20:520, and 20:570.

(3) A candidate who fails to complete the program by September 1, 2000, and does not apply for the certification by January 1, 2001 shall be required to qualify for the certification identified in this administrative regulation.

(4) A candidate admitted to an advanced level preparation program prior to September 1, 1998, shall:

- (a) Complete the program by September 1, 2003; and
- (b) Apply for the certification by January 1, 2004.

(5) The Education Professional Standards Board shall communicate to the Kentucky a college or university approved for these programs the effective date for admission to each new program identified in this administrative regulation and the date by which a candidate shall complete the former program. Colleges and universities shall take adequate steps to inform a candidate in the program regarding the deadline dates.

TIM DEDMAN, Chair

MARCIA SEILER, Attorney

APPROVED BY AGENCY: June 30, 1999

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FILED WITH LRC: July 6, 1999 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on August 24, 1999, at 10 a.m. in the 1st Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, five work days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. 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: Dr. Susan Leib, Associate Commissioner, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact person: Marcia Seiler

(1) Type and number of entities affected: Teacher applicants seeking certification in Kentucky from the Education Professional Standards Board; teachers seeking renewal of their certificate, rank change, or additional certification; and teacher training institutions seeking state accreditation from the Education Professional Standards Board.

(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 promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and 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: 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternative were rejected: Removal of the New Teacher Standards from this regulation and their concurrent placement in a separate administrative regulation (704 KAR 20:730, Standards for certified school personnel) will both emphasize their importance and allow teachers and administrators to more easily reference these standards.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas 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: 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: The removal of the New Teacher Standards from this regulation is a technical amendment to avoid duplication with the new administrative regulation described in Section (7) above.

(11) TIERING: Is tiering applied? No. Certification requirements are the same for all applicants.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance (Amendment)

806 KAR 17:066. Medicare supplement insurance policies.

RELATES TO: KRS 304.12-020, 304.14-500 to 304.14-550, 304.17-305, 304.17-318, 304.18-036, 304.18-095, 304.32-157, 304.32-165, 304.32-270, 304.38-193, 304.38-196, 304.38-200

STATUTORY AUTHORITY: KRS 304.2-110, 304.14.510, 304.32-250, 304.38-150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes [provides that] the Commissioner of Insurance to promulgate [may make reasonable] administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.14-510 authorizes [provides that] the Commissioner of Insurance to promulgate [may make reasonable] administrative regulations establishing minimum standards for Medicare supplement insurance policies. KRS 304.32-250 authorizes [provides that] the Commissioner of Insurance to promulgate [may make reasonable] administrative regulations which he deems necessary for the proper administration of KRS 304.32. KRS 304.38-150 authorizes [provides that] the Commissioner of Insurance to promulgate [may make reasonable] administrative regulations which he deems necessary for the proper administration of KRS Chapter 304.38. This administrative regulation establishes minimum standards for Medicare supplement insurance policies.

Section 1. Definitions. (1) "Applicant" means:

(a) In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group Medicare supplement policy, the proposed certificate holder.

(2) "Bankruptcy" means when a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in this state.

(3) "Certificate" means any certificate delivered to or issued under a group Medicare supplement policy.

(4) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the insurer.

(5) "Commissioner" is defined by KRS 304.1-050(1). [means the Commissioner of the Kentucky Department of Insurance.]

(6) "Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days.

(7)(a) "Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10 United States Code;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under chapter 89 of Title 5 United States Code;

9. A public health plan as defined in federal regulation; and

10. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)).

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(b) Creditable coverage shall not include one (1) or more, or any combination of, the following:

1. Coverage only for accident and disability income insurance, or any combination thereof;
2. Coverage issued as a supplement to liability insurance;
3. Liability insurance, including general liability insurance and automobile liability insurance;
4. Workers' compensation or similar insurance;
5. Automobile medical payment insurance;
6. Credit-only insurance;
7. Coverage for on-site medical clinics; and
8. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(c) Creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

1. Limited scope dental or vision benefits;
2. Benefits for long-term care, nursing home health care, home health care, community-based care, or any combination thereof; and
3. Such other similar, limited benefits as are specified in federal regulations.

(d) Creditable coverage shall not include the following benefits if offered as independent, noncoordinated benefits:

1. Coverage only for a specified disease or illness; and
2. Hospital indemnity or other fixed indemnity insurance.

(e) Creditable coverage shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

1. Medicare supplement health insurance benefits as defined under section 1882(g)(1) of the Social Security Act;
2. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and
3. Similar supplemental coverage provided to coverage under a group health plan.

(8) "Employee welfare benefit plan" means a plan, fund or program of employee benefits as defined in 29 USC Section 1002, Employee Retirement Income Security Act.

(9) "Insolvency" means when an insurer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

(10) "Insurance policy" means an insurance policy; a subscriber contract issued by a nonprofit hospital, medical-surgical, dental, and health service corporation; and an enrollee contract issued by a health maintenance organization.

(11) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering or issuing for delivery in this state Medicare supplement policies or certificates.

(12) "Medicare" means the "Health Insurance for the Aged Act," "Title XVIII of the Social Security Amendments of 1965," as then constituted or later amended (42 USC 1395 et seq.).

(13) "Medicare+Choice plan" means a plan of coverage for health benefits under Medicare Part C as defined in Section 1859 found in Title IV, Subtitle A, Chapter 1 of PL 105-33, and includes the following:

(a) A coordinated care plan which provide health care services, including the following:

1. A health maintenance organization plan with or without a point-of-service option;
2. A plan offered by a provider-sponsored organization; and
3. A preferred provider organization plan;

(b) A medical savings account plan coupled with a contribution into a Medicare+Choice medical savings account; and

(c) A Medicare+Choice private fee-for-service plan.

(14) "Medicare supplement policy" means a group or individual policy of insurance, a subscriber contract issued by a nonprofit hospital, medical-surgical, dental, and health service corporation, or an enrollee contract issued by a health maintenance organization, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 USC Section 1395 et seq.) or an issued policy under a demonstration project specified in 42 USC 1395ss(g)(1), which is advertised, marketed, or designed primarily as

a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare.

(15) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(16) "Secretary" means the Secretary of the United States Department of Health and Human Services.

Section 2. Purpose, Applicability, and Scope. (1) The purpose of this administrative regulation is to provide for the reasonable standardization of coverage [coverages] and simplification of terms and benefits of Medicare supplement policies, to facilitate public understanding and comparison of such policies, to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or in connection with the settlement of claims, and to provide for full disclosure in the sale of health insurance coverage [coverages] to persons eligible for Medicare.

(2) Except as otherwise specifically provided in Sections 11 and 12 of this administrative regulation, this administrative regulation shall apply to:

(a) A [All] Medicare supplement policy [policies] delivered or issued for delivery in this state on or after the effective date of this administrative regulation; and

(b) A certificate [All-certificates] issued under a group Medicare supplement policy [policies], which a certificate has [certificates-have] been delivered or issued for delivery in this state.

(3) This administrative regulation shall not apply to a policy or contract of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Section 3. Policy Definitions and Terms. A policy or certificate shall not be advertised, solicited, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless the policy or certificate contains terms or definitions which conform to those in this section.

(1) "Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

(a) The definition shall not be more restrictive than the following: "injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is a direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(b) Such definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability, or similar law, or motor vehicle no-fault insurance plan, unless such a definition is prohibited by law.

(2) "Benefit period," or "Medicare benefit period," shall not be defined as more restrictive than as that defined in the Medicare program.

(3) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

(4) "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

(a) These expenses shall not include:

1. Home office and overhead costs;
2. Advertising costs;
3. Commissions and other costs of acquiring insurance business;
4. Taxes;
5. Capital costs;
6. Administrative costs; and
7. Claims processing costs.

(5) "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but shall not be defined more restrictively than as defined in the Medicare program.

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(6) "Medicare" shall be defined in the policy and certificate. Medicare may be substantially defined as "the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended," or Title I, Part I of PL 89-97, as enacted by the 89th Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof, or words of similar import.

(7) "Medicare eligible expenses" shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(8) "Physician" shall not be defined more restrictively than as defined in the Medicare program.

(9) "Sickness" shall not be defined to be more restrictive than the following: "sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, or employer's liability, or similar law.

Section 4. Policy Provisions. (1) Except for permitted preexisting condition clauses as described in Sections 5(1)(a) and 6(1)(a) of this administrative regulation, a policy or certificate shall not be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(2) A Medicare supplement policy shall not contain a probationary or elimination period.

(3) A Medicare supplement policy or certificate shall not use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(4) A Medicare supplement insurance policy in force in this state shall not contain benefits that [which] duplicate benefits provided by Medicare.

Section 5. Minimum Benefit Standards. (1) A policy or certificate shall not be advertised, solicited, or issued for delivery in Kentucky as a Medicare supplement policy or certificate if it does not meet or exceed the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits that [which] are consistent with these standards. This section applies to a Medicare supplement policy [policies] issued prior to January 1, 1992.

(2) General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this administrative regulation.

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with these changes.

(d) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

1. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium; or

2. Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

(e) 1. Except as authorized by the commissioner, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

2. If a group Medicare supplement insurance policy is terminated

by the group policyholder and not replaced as provided in subparagraph 4 of this paragraph, the issuer shall offer certificate holders an individual Medicare supplement policy. The issuer shall offer the certificate holder at least the following choices:

a. An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

b. An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in Section 6(2) of this administrative regulation.

3. If membership in the group is terminated, the insurer shall:

a. Offer the certificate holder the conversion opportunities described in subparagraph 2 of this paragraph; or

b. Offer the certificate holder continuation of coverage under the group policy.

4. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

(3) Minimum benefit standards.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage for either all or none of Medicare Part A inpatient hospital deductible amount;

(c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(d) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety (90) percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(e) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B; and

(f) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out of pocket amount equal to the Medicare Part B deductible maximum benefit.

(g) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

Section 6. Benefit Standards for Policies or Certificates Issued or Delivered on or after January 1, 1992. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in Kentucky on or after January 1, 1992. A policy or certificate shall not be advertised, solicited, delivered, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this administrative regulation:

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or

treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents, and shall not contain a probationary or elimination period.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare shall be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(d) A Medicare supplement policy or certificate shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(e) Each Medicare supplement policy shall be guaranteed renewable; and

1. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual; and

2. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

3. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subparagraph 5 of this paragraph, the issuer shall offer certificate holders an individual Medicare supplement policy which (at the option of the certificate holder):

a. Provides for continuation of the benefits contained in the group policy; or

b. Provides for benefits which otherwise meet the requirements of this subsection.

4. If an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall offer continuation and conversion coverages in accordance with subparagraph 3 of this paragraph.

5. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(g) 1. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of such policy or certificate within ninety (90) days after the date the individual becomes entitled to such assistance.

2. If the suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstituted (effective as of the date of termination of the entitlement to medical assistance) as of the termination of the entitlement if the policyholder or certificate holder provides notice of loss of the entitlement within ninety (90) days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of the entitlement.

3. Reinstitution of coverages:

(i) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

(ii) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of suspension; and

(iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

(2) Standards for basic ("core") benefits common to all benefit plans. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic "core" package, but not in lieu thereof.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

(d) Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; and

(e) Coverage for the coinsurance amount; or in the case of hospital outpatient department services under a prospective system, the copayment amount; of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(3) Standards for additional benefits. The following additional benefits shall be included in Medicare supplement benefit Plans "B" through "J" only as provided by Section 7 of this administrative regulation.

(a) Medicare Part A deductible: coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period;

(b) Skilled nursing facility care: coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A;

(c) Medicare Part B deductible: coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement;

(d) Eighty (80) percent of the Medicare Part B excess charges: coverage for eighty (80) percent of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge;

(e) 100 percent of the Medicare Part B excess charges: coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge;

(f) Basic outpatient prescription drug benefit: coverage for fifty (50) percent of outpatient prescription drug charges, after a \$250 calendar year deductible, to a maximum of \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(g) Extended outpatient prescription drug benefit: coverage for fifty (50) percent of outpatient prescription drug charges, after a \$250 calendar year deductible to a maximum of \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(h) Medically necessary emergency care in a foreign country: coverage to the extent not covered by Medicare for eighty (80) percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i) Preventive medical care benefit: coverage for the following preventive health services:

1. An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph 2 of this paragraph and patient education to address preventive health

care measures.

2. Any one (1) or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

- a. Fecal occult blood test and/or digital rectal examination;
 - b. Mammogram;
 - c. Dipstick urinalysis for hematuria, bacteriuria and proteinuria;
 - d. Pure tone (air only) hearing screening test, administered or ordered by a physician;
 - e. Serum cholesterol screening (every five (5) years);
 - f. Thyroid function test; or
 - g. Diabetes screening.
3. Influenza vaccine administered at any appropriate time during the year and tetanus and diphtheria booster (every ten (10) years).
4. Any other tests or preventive measure determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of \$120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(j) At-home recovery benefit: coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

1. For purposes of this benefit, the following definitions shall apply:

a. "Activities of daily living" include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

b. "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

c. "Home" shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

d. "At-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit.

2. Coverage requirements and limitations:

a. At-home recovery services provided shall be primarily services which assist in activities of daily living.

b. The insured's attending physician shall certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

c. Coverage is limited to:

(i) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment.

(ii) The actual charges for each visit up to a maximum reimbursement of forty (40) dollars per visit.

(iii) \$1,600 per calendar year.

(iv) Seven (7) visits in any one (1) week.

(v) Care furnished on a visiting basis in the insured's home.

(vi) Services provided by a care provider as defined in this section.

(vii) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(viii) At-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight (8) weeks after the service date of the last Medicare-approved home health care visit.

3. Coverage is excluded for:

a. Home care visits paid for by Medicare or other government programs; and

b. Care provided by family members, unpaid volunteers, or providers who are not care providers.

(k) New or innovative benefits: an issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. New or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of a simplification of Medicare supplement policies.

Section 7. Standard Medicare Supplement Benefit Plans. (1) An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic "core" benefits, as defined in Section 6(2) of this administrative regulation.

(2) Groups, packages, or combinations of Medicare supplement benefits other than those listed in this section shall not be offered for sale in this state, except as may be permitted in Sections 6(3)(k) and 8 of this administrative regulation.

(3) Benefit plans shall be uniform in structure, language, designation, and format to the standard benefit Plans "A" through "J" listed in this subsection and conform to the definitions in Section 8 of this administrative regulation. Each benefit shall be structured in accordance with the format provided in Section 6(2) and (3) of this administrative regulation and list the benefits in the order shown in this subsection. For purposes of this section, "structure, language, and format" means style, arrangement and overall content of a benefit.

(4) An issuer may use, in addition to the benefit plan designations required in subsection (3) of this section, other designations to the extent permitted by law.

(5) Make-up of benefit plans:

(a) Standardized Medicare supplement benefit Plan "A" shall be limited to the basic ("core") benefits common to all benefit plans, as defined in Section 6(2) of this administrative regulation.

(b) Standardized Medicare supplement benefit Plan "B" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible as defined in Section 6(3)(a) of this administrative regulation.

(c) Standardized Medicare supplement benefit Plan "C" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (c), and (h) of this administrative regulation, respectively.

(d) Standardized Medicare supplement benefit Plan "D" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in Section 6(3)(a), (b), (h), and (j) of this administrative regulation, respectively.

(e) Standardized Medicare supplement benefit Plan "E" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in Section 6(3)(a), (b), (h), and (i) of this administrative regulation, respectively.

(f) Standardized Medicare supplement benefit Plan "F" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (c), (e), and (h) of this administrative regulation, respectively.

(g) Standardized Medicare supplement benefit high deductible Plan "F" shall include only the following: 100 percent of covered expenses following the payment of the annual high deductible Plan "F" deductible. The covered expenses shall include the core benefit as defined in Section 6(2) of this administrative regulation in addition to the following:

1. Medicare Part A deductible;

2. Skilled nursing facility care;

3. The Medicare Part B deductible;

4. 100 percent of the Medicare Part B excess charges; and

5. Medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (c), (e), and (h) of this administrative regulation, respectively.

The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan "F" deductible shall be \$1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten (10) dollars.

(h) Standardized Medicare supplement benefit Plan "G" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, eighty (80) percent of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in Section 6(3)(a), (b), (d), (h), and (j) of this administrative regulation, respectively.

(i) [(h)] Standardized Medicare supplement benefit Plan "H" shall consist of only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit, and medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (f), and (h) of this administrative regulation, respectively.

(j) [(i)] Standardized Medicare supplement benefit Plan "I" shall consist of only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in Section 6(3)(a), (b), (e), (f), (h), and (j) of this administrative regulation, respectively.

(k) [(j)] Standardized Medicare supplement benefit Plan "J" shall consist of only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare part A deductible, skilled nursing facility care, Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in Section 6(3)(a), (b), (c), (e), (g), (h), (i), and (j) of this administrative regulation, respectively.

(l) Standardized Medicare supplement benefit high deductible Plan "J" shall consist of 100 percent of covered expenses following the payment of the annual high deductible Plan "J" deductible. The covered expenses include the core benefit as defined in Section 6(2) of this administrative regulation in addition to the following:

1. The Medicare Part A deductible;
2. Skilled nursing facility care;
3. Medicare Part B deductible;
4. Medicare Part B excess charges;
5. Extended outpatient prescription drug benefit;
6. Medically necessary emergency care in a foreign country;
7. Preventive medical care benefit; and
8. At-home recovery benefit as defined in Section 6(3)(a), (b), (c), (e), (g), (h), (i) and (j) of this administrative regulation, respectively.

The annual high deductible Plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by Medicare supplement Plan "J" policy, and shall be \$1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten (10) dollars.

Section 8. Medicare Select Policies and Certificates. (1)(a) This section shall apply to Medicare select policies and certificates, as defined in this section.

(b) A policy or certificate shall not be advertised as a Medicare

select policy or certificate unless it meets the requirements of this section.

(2) For the purpose of this section:

(a) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare select issuer or its network providers.

(b) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare select issuer or its network providers.

(c) "Medicare select issuer" means an issuer offering, or seeking to offer, a Medicare select policy or certificate.

(d) "Medicare select policy" or "Medicare select certificate" means respectively a Medicare supplement policy or certificate that contains restricted network provisions.

(e) "Network provider" means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare select policy.

(f) "Restricted network provision" means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

(g) "Service area" means the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare select policy.

(3) The commissioner may authorize an issuer to offer a Medicare select policy or certificate, pursuant to this section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) (42 USC 1395ss) of 1990, if the commissioner finds that the issuer has satisfied all of the requirements of this administrative regulation.

(4) A Medicare select issuer shall not issue a Medicare select policy or certificate in this state until its plan of operation has been approved by the commissioner.

(5) A Medicare select issuer shall file a proposed plan of operation with the commissioner in a format prescribed by the commissioner. The plan of operation shall contain at least the following information:

(a) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

1. Covered services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

2. The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

- a. To deliver adequately all services that are subject to a restricted network provision; or
- b. To make appropriate referrals.

3. There are written agreements with network providers describing specific responsibilities.

4. Emergency care is available twenty-four (24) hours per day and seven (7) days per week.

5. In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare select policy or certificate. This paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate.

(b) A statement or map providing a clear description of the service area.

(c) A description of the grievance procedure to be utilized.

(d) A description of the quality assurance program, including:

1. The formal organizational structure;
2. The written criteria for selection, retention and removal of network providers; and
3. The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(e) A list and description, by specialty, of the network providers.

(f) Copies of the written information proposed to be used by the issuer to comply with paragraph (9) of this subsection.

(g) Any other information requested by the commissioner.

(6)(a) A Medicare select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner prior to implementing any changes. Any changes shall be considered approved by the commissioner thirty (30) days after filing unless specifically disapproved by the commissioner.

(b) An updated list of network providers shall be filed with the commissioner at least quarterly.

(7) A Medicare select policy or certificate shall not restrict payment for covered services provided by nonnetwork providers if:

(a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or a condition; and

(b) It is not reasonable to obtain these services through a network provider.

(8) A Medicare select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(9) A Medicare select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare select policy or certificate to each applicant. This disclosure shall include at least the following:

(a) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare select policy or certificate with:

1. Other Medicare supplement policies or certificates offered by the issuer; and

2. Other Medicare select policies or certificates.

(b) A description (including address, phone number, and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers.

(c) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized.

(d) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(e) A description of limitations on referrals to restricted network providers and to other providers.

(f) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.

(g) A description of the Medicare select issuer's quality assurance program and grievance procedure.

(10) Prior to the sale of a Medicare select policy or certificate, a Medicare select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to subsection (9) of this section and that the applicant understands the restrictions of the Medicare select policy or certificate.

(11) A Medicare select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. These procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(a) The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(b) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(c) A grievance [Grievances] shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

(d) If a grievance is found to be valid, corrective action shall be taken promptly.

(e) All concerned parties shall be notified about the results of a grievance.

(f) The issuer shall report no later than each March 31st to the commissioner regarding its grievance procedure. The report shall be in a format prescribed by the commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances.

(12) At the time of initial purchase, a Medicare select issuer shall make available to each applicant for a Medicare select policy or certificate the opportunity to purchase any Medicare supplement policy or

certificate otherwise offered by the issuer.

(13)(a) At the request of an individual insured under a Medicare select policy or certificate, a Medicare select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make these policies or certificates available without requiring evidence of insurability after the Medicare supplement policy or certificate has been in force for six (6) months.

(b) For the purpose of this subsection, a Medicare supplement policy or certificate shall be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Part B excess charges.

(14) Medicare select policies and certificates shall provide for continuation of coverage in the event the Secretary of the United States Department of Health and Human Services determines that Medicare select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare select program to be reauthorized under law or its substantial amendment.

(a) Each Medicare select issuer shall make available to each individual insured under a Medicare select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make such policies and certificates available without requiring evidence of insurability.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate shall be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Part B excess charges.

(15) A Medicare select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare select program.

Section 9. Open Enrollment. (1) An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in Kentucky, nor discriminate in the pricing of a Medicare supplement policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is sixty-five (65) years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this subsection without regard to age.

(2)(a) If an applicant qualifies under subsection (1) of this section and submits an application during the time period reference in subsection (1) of this section and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition.

(b) If the applicant qualifies under subsection (1) of this section and submits an application during the time period referenced in subsection (1) of this section and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The secretary shall specify the manner of the reduction under this subsection.

(3) [§2] Except as provided in Section 21(1) of this administrative regulation, this administrative regulation shall not be construed as

preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective.

Section 10. Guarantee Issue for Eligible Persons. (1) Guarantee issue.

(a) Eligible persons shall be those individuals described in subsection (2) of this section who apply to enroll under the policy not later than sixty-three (63) days after the date of termination of enrollment described in subsection (2) of this section, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(b) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection (3) of this section that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(2) An eligible person shall include the following:

(a) An individual that is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual;

(b) An individual that is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare, and any of the following circumstances apply:

1. The organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

2. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individuals enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;

3. The individual demonstrates, in accordance with the guidelines established by the secretary, that:

a. The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards;

b. The organization, or agent or other entity acting on the organizations behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

c. The individual meets such other exceptional conditions as the secretary may provide.

(c)1. An individual that is enrolled with any of the following:

a. An eligible organization under a contract under section 1876 regarding Medicare risk or cost;

b. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

c. An organization under an agreement under section 1833(a)(1)(A) regarding the health care prepayment plan; or

d. An organization under a Medicare select policy; and

2. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage pursuant to paragraph (b) of this subsection.

(d) An individual that is enrolled under a Medicare supplement policy and the enrollment ceases due to any of the following reasons:

1.a. The insolvency of the issuer or bankruptcy of the nonissuer organization; or

b. The involuntary termination of coverage or enrollment under

the policy;

2. The issuer of the policy substantially violated a material provision of the policy; or

3. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

(e)1. An individual that was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any of the following:

a. A Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare;

b. An eligible organization under a contract under section 1876 regarding Medicare risk or cost;

c. Any similar organization operating under demonstration project authority;

d. Any organization under agreement under section 1833(a)(1)(A) regarding health care prepayment plan; or

e. A Medicare Select policy; and

2. The subsequent enrollment under paragraph (a) of this subsection is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the federal Social Security Act; or

(f) The individual, upon first becoming eligible for benefits under Part A of Medicare at age sixty-five (65), enrolls in a Medicare+Choice plan under Part C of Medicare, and disenrolls from the plan by not later than twelve (12) months after the effective date of enrollment.

(3) The Medicare supplement policy to which eligible persons are entitled shall be the following:

(a) Subsection (2)(a), (b), (c), and (d) of this section that is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by an issuer.

(b) Subsection (2)(e) of this section that is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in subsection (2)(a) of this section.

(c) Subsection (2)(f) of this section which shall include any Medicare supplement policy offered by any issuer.

(4) Notification provisions.

(a) At the time of an event as described in subsection (2) of this section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection (1) of this section. Such notice shall be communicated contemporaneously with the notification of termination.

(b) At the time of an event as described in subsection (2) of this section because of which an individual ceases enrollment under a contract, agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection (1) of this section. Such notice shall be communicated within ten (10) working days of the issuer receiving notification of enrollment.

Section 11. Standards for Claims Payment. (1) An issuer shall comply with section 1882(c)(3) of the Social Security Act (as enacted by section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987, PL No. 100-203) (42 USC 1395ss) by:

(a) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;

(b) Notifying the participating physician or supplier and the beneficiary of the payment determination;

(c) Paying the participating physician or supplier directly;

(d) Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central mailing address to which notices from a Medicare carrier may be sent;

(e) Paying user fees for claim notices that are transmitted electronically or otherwise; and

(f) Providing to the Secretary of the United States Department of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

(2) Compliance with the requirements set forth in subsection (1) of this section shall be certified on the Medicare Supplement Insurance Experience Reporting Form.

Section 12. [44:] Loss Ratio Standards and Refund or Credit of Premium. (1) Loss ratio standards.

(a)1. A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery in Kentucky unless it can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

a. At least seventy-five (75) percent of the aggregate amount of premiums earned in the case of group policies; or

b. At least sixty-five (65) percent of the aggregate amount of premiums earned in the case of individual policies;

2. Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for such period and in accordance with accepted actuarial principles and practices.

(b) A filing [All filings] of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(c) For purposes of applying subsection (1)(a) of this section and Section 12(3)(c) of this administrative regulation only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

(d) For policies issued prior to October 14, 1990, expected claims in relation to premiums shall meet:

1. The originally filed anticipated loss ratio when combined with the actual experience since inception;

2. The appropriate loss ratio requirement from subsection (1)(a)1a and b of this section when combined with actual experience beginning with (insert effective date of this revision) to date; and

3. The appropriate loss ratio requirement from subsection (1)(a)1a and b of this section over the entire future period for which the rates are computed to provide coverage.

(2) Refund or credit calculation.

(a) An issuer shall collect and file with the commissioner by May 31 of each year the data contained in the applicable reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

(b) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund of credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(c) For the purposes of this section, policies or certificates issued prior to October 14, 1990, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after this amendment to the administrative regulation is adopted and effective pursuant to KRS Chapter 13A. The first report containing the information found in this paragraph shall be due May 31, 1998.

(d) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount

to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of the United States Department of Health and Human Services, but shall not be less than the average rate of interest for thirteen (13) week treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

(3) Annual filing of premium rates. An issuer of Medicare supplement policies and certificates issued before or after January 1, 1992, in this state shall file annually its rates, rating schedule, and supporting documentation, including ratios of incurred losses to earned premiums by policy duration for approval by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years.

(a) As soon as practicable prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in Kentucky shall file with the commissioner, in accordance with applicable filing procedures:

1. Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable Medicare supplement policies or certificates. Supporting documents as necessary to justify the adjustment shall accompany the filing.

2. An issuer shall make premium adjustments as are necessary to produce an expected loss ratio under the policies and certificates as will conform to the minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for Medicare supplement policies or certificates. A premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described in this subsection shall not be made with respect to a policy at any time other than upon its renewal date or anniversary date.

3. If an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order premium adjustments, refunds, or premium credit deemed necessary to achieve the loss ratios required by this section.

(b) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. These riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement insurance benefits provided by the Medicare supplement policy or certificate.

(4) Public hearings. The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after January 1, 1992, if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in accordance with KRS Chapter 304.2.

Section 13. [42:] Filing and Approval of Policies and Certificates and Premium Rates. (1) An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner.

(2) An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner.

(3)(a) Except as provided in paragraph (b) of this subsection, an issuer shall not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit

plan.

(b) An issuer may offer, with the approval of the commissioner, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) for each of the following cases:

1. The inclusion of new or innovative benefits;
2. The addition of either direct response or agent marketing methods;
3. The addition of either guaranteed issue or underwritten coverage; and
4. The offering of coverage to individuals eligible for Medicare by reason of disability.

(c) For the purposes of this section, a "type" means an individual policy, a group policy, an individual Medicare select policy, or a group Medicare select policy.

(4)(a) Except as provided in subparagraph 1 of this paragraph, an issuer shall continue to make available for purchase any policy form or certificate form issued after January 1, 1992, that has been approved by the commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months.

1. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

2. An issuer that discontinues the availability of a policy form or certificate form pursuant to subparagraph 1 of this paragraph shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(b) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this subsection.

(c) A change in the rating structure or methodology shall be considered a discontinuance under paragraph (a) of this subsection unless the issuer complies with the following requirements:

1. The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates; and
2. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential which is in the public interest.

(5)(a) Except as provided in paragraph (b) of this subsection, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 11 of this administrative regulation.

(b) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

Section 14. [13:] Permitted Compensation Arrangements. (1) An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

(2) The commission or other compensation provided in subsequent (renewal) years shall be the same as that provided in the second year or period and shall be provided for not less than five (5) years.

(3) An issuer or other entity shall not provide compensation to its agents or other producers and an agent or producer shall not receive compensation greater than the renewal compensation payable by the

replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

(4) For purposes of this section, "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards, and finders' fees.

Section 15. [14:] Required Disclosure Provisions. (1) General rules.

(a) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of such provision shall be consistent with the type of insurance policy issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases on the insured's age.

(b) Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after the date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

(c) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import.

(d) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, these limitations shall appear as a separate paragraph of the policy and be labeled as "pre-existing condition limitations."

(e) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within at least thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured is not satisfied for any reason.

(f)1. Issuers of insurance policies and certificates thereunder covering accident and sickness and hospital or medical expenses on an expense incurred or indemnity basis to persons eligible for Medicare shall provide to these applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than twelve (12) point type. Delivery of the guide shall be made whether or not the policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates as defined in this administrative regulation. Delivery of the guide shall be made to the applicant at the time of application and acknowledgment of receipt of the guide shall be obtained by the issuer, except that direct response issuers shall deliver the guide to the applicant upon request, but not later than the time the policy is delivered.

2. For the purposes of this section, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing.

(2) Notice requirements.

(a) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its insureds of modifications it has made to Medicare supplement policies or certificates. The notice shall be in a format acceptable to the commissioner. The notice shall:

1. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided

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under the Medicare supplement insurance policy or certificate; and

2. Inform each policyholder or certificate holder as to when any premium adjustment is to be made due to changes in Medicare.

(b) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(c) The notices shall not contain or be accompanied by any solicitation.

(3) Outline of coverage requirements for Medicare supplement policies.

(a) Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response issuers, shall obtain an acknowledgment of receipt of the outline from the applicant.

(b) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type immediately above

(COMPANY NAME)

Outline of Medicare Supplement Coverage - Cover Page:
Benefit Plan(s)___ (Insert letter(s) of plan(s) being offered)

the issuer's name:

"NOTICE: READ THIS OUTLINE OF COVERAGE CAREFULLY. IT IS NOT IDENTICAL TO THE OUTLINE OF COVERAGE PROVIDED UPON APPLICATION AND THE COVERAGE ORIGINALLY APPLIED FOR HAS NOT BEEN ISSUED."

(c) The outline of coverage provided to applicants pursuant to this subsection consists of four (4) parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than twelve (12) point type. All Plans A-J shall be shown on the cover page, and the plan(s) that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

(d) The following items shall be included in the outline of coverage in the order prescribed below:

Medicare supplement insurance can be sold in only ten standard plans and two (2) high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan "A". Some plans may not be available in your state.

BASIC BENEFITS: Included in all plans.

Hospitalization: Part A [B] coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical expenses: Part B coinsurance (20% of Medicare-approved expenses), or, in the case of hospital outpatient department services under a prospective payment system, applicable copayments.

Blood: First three pints of blood each year.

A Basic Benefits	B Basic Benefits	C Basic Benefits	D Basic Benefits	E Basic Benefits	F* Basic Benefits	G Basic Benefits	H Basic Benefits	I Basic Benefits	J* Basic Benefits
		Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance
	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble
		Part B Deducti- ble			Part B Deducti- ble				Part B Deducti- ble
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency
			At-home Recovery			At-home Recovery		At-home Recovery	At-home Recovery
							Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)
				Prevent- ive Care					Prevent- ive Care

Plans F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year \$1500 deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but does not include, in Plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

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1. PREMIUM INFORMATION (Boldface Type)

We (insert issuer's name) can only raise your premium if we raise the premium for all policies like yours in this state. (If the premium is based on the increasing age of the insured, include information specifying when premiums will change).

2. DISCLOSURES (Boldface Type)

Use this outline to compare benefits and premiums among policies.

3. [2:] READ YOUR POLICY VERY CAREFULLY (Boldface Type)

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

4. [3:] RIGHT TO RETURN POLICY (Boldface Type)

If you find that you are not satisfied with your policy, you may return it to (insert issuer's address). If you send the policy back to us within thirty (30) days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

5. [4:] POLICY REPLACEMENT (Boldface Type)

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

6. [5:] NOTICE (Boldface Type)

This policy may not fully cover all of your medical costs.

a. (for agents)

Neither (insert insurer's name) nor its agents are connected with Medicare.

b. (for direct response insurers:)

(insert insurer's name) is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security office or consult "The Medicare Handbook" for more details.

7. [6:] COMPLETE ANSWERS ARE VERY IMPORTANT

(Boldface Type)

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Review the application carefully before you sign it. Be certain that all information has been recorded properly.

(Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments, and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. More than four (4) plans shall not be shown on one (1) chart. For purposes of illustration, charts for each plan are included in this administrative regulation. An issuer may use additional benefit plan designations on these charts pursuant to Section 7(4) of this administrative regulation.)

(Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.)

PLAN A			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$0	\$764 [716] (Part A deductible)
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	\$0	Up to \$95.50 [89.50] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

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PLAN A			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN B			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amount	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	\$0	Up to \$95.50 [89.50] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN B			
MEDICARE (PART A) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES: IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	generally 80%	Generally 20%	\$0

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	Part B excess charges (above Medicare-approved amounts)	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	All costs	\$0
	Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
	CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES	\$100	\$0	\$0
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN C				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
	First 60 days	All but \$764 [716]	\$765 [716] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			
	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	3 pints	\$0
	Additional amounts	100%	\$0	\$0
HOSPICE CARE				
	Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out patient drugs and inpatient respite care	\$0	Balance
PLAN C				
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,				
	First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
	Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	All costs	\$0
	Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	80%	20%	\$0
	CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0

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Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN C			
OTHER BENEFITS - NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN D			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN D			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES: IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
Part B excess charges (above Medicare-approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0

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Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE			
FOREIGN TRAVEL - NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN E			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN E			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0

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CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES		100%	\$0	\$0
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN E				
OTHER BENEFITS - NOT COVERED BY MEDICARE				
SERVICES		MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE				
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA				
	First \$250 each calendar year	\$0	\$0	\$250
	Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PREVENTIVE MEDICAL CARE BENEFIT-NOT COVERED BY MEDICARE				
Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare				
	First \$120 each calendar year	\$0	\$120	\$0
	Additional charges	\$0	\$0	All costs
PLAN F				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan F will not begin until after out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductible for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.				
SERVICES		MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE** YOU PAY
HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
	First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			
	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				
First 3 pints		\$0	3 pints	\$0
Additional amounts		100%	\$0	\$0
HOSPICE CARE				
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.		All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN F				
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
**This deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.				

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SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE** YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (above Medicare-approved amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care Services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN F			
OTHER BENEFITS - NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN G			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN G			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			

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First \$100 of Medicare-approved amounts*		\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts		generally 80%	generally 20%	\$0
Part B excess charges (above Medicare approved amounts)		\$0	80%	20%
BLOOD				
First 3 pints		\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*		\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts		80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES		100%	\$0	\$0
PARTS A & B				
HOME HEALTH CARE				
MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE				
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan				
	Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
	Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
	Calendar year maximum	\$0	\$1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE				
SERVICES		MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE				
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA				
	First \$250 each calendar year	\$0	\$0	\$250
	Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN H				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
SERVICES		MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
	First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			
	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				
First 3 pints		\$0	3 pints	\$0
Additional amounts		100%	\$0	\$0
HOSPICE CARE				
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.		All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

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PLAN H			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	0%	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN H			
OTHER BENEFITS - NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All costs
PLAN I			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [746]	\$764 [746] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			

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Available as long as your doctor certifies you are terminally ill and you elect to receive these services.		All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN I				
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
SERVICES		MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,				
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)	
Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0	
Part B excess charges (above Medicare approved amounts)	\$0	100%	\$0	
BLOOD				
First 3 pints	\$0	All costs	\$0	
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)	
Remainder of Medicare-approved amounts	80%	20%	\$0	
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0	
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
Medically necessary skilled care services and medical supplies	100%	\$0	\$0	
Durable medical equipment				
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)	
Remainder of Medicare-approved amounts	80%	20%	\$0	
AT-HOME RECOVERY SERVICES NOT COVERED BY MEDICARE				
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan				
Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance	
Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week		
Calendar year maximum	\$0	\$1,600		
OTHER BENEFITS - NOT COVERED BY MEDICARE				
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY	
FOREIGN TRAVEL-NOT COVERED BY MEDICARE				
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA				
First \$250 each calendar year	\$0	\$0	\$250	
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum	
BASIC OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE				
First \$250 each calendar year	\$0	\$0	\$250	
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%	
Over \$2,500 each calendar year	\$0	\$0	All costs	
PLAN J				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
**This deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.				
SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** YOU PAY	
HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0	
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0	

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91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN J			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
**This deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.			
SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE** YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
EXTENDED OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250

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Next \$6,000 each calendar year	\$0	50% - \$3,000 calendar year maximum benefit	50%
Over \$6,000 each calendar year	\$0	\$0	All costs
PREVENTIVE MEDICAL CARE BENEFIT NOT COVERED BY MEDICARE			
Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs

(4) Notice regarding policies or certificates which are not Medicare supplement policies.

(a) Any accident or sickness insurance policy or certificate (other than a Medicare supplement policy), a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 USC sec. 1395 et seq.), disability income policy, or other policy identified in Section 2(3) of this administrative regulation issued for delivery in Kentucky to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed on or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, printed on or attached to the first page of the policy or certificate delivered to insureds. Such notice shall be in no less than twelve (12) point type and shall contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT POLICY. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the insurance company."

(b) Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in paragraph (a) of this subsection shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

Section 16. [15:] Requirements for Application Forms and Replacement Coverage. (1) Comparison statement. When a Medicare supplement policy or certificate is to replace another health insurance policy or certificate, there shall be presented to the applicant, no later than at the time of taking the application, a comparison statement which shall be substantially identical to Appendix C. Direct response issuers shall present the comparison statement to the applicant not later than at the time of delivery of the policy. Agents shall obtain the signature of the applicant on the comparison statement and shall sign the comparison statement and send the comparison statement to the issuer. A copy of the comparison statement shall be attached to the replacement policy.

(2) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or a Medicare supplement policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and the agent containing these questions and statements may be used:

(a) Statements.

1. You do not need more than one (1) Medicare supplement policy.

2. If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

3. You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

4. The benefits and premiums under your Medicare supplement policy can be suspended, if requested during your entitlement to benefits under Medicaid for twenty-four (24) months. You must request this suspension within ninety (90) days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within ninety (90) days of losing Medicaid eligibility.

5. Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid Pro-

gram including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB).

(b) Questions. To the best of your knowledge:

1. Do you have another Medicare supplement policy or certificate in force?

a. If so, with which company?

b. If so, do you intend to replace your current Medicare supplement policy with this policy or certificate?

2. Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

a. If so, with which company?

b. What kind of policy?

3. Are you covered for medical assistance through the state Medicaid Program:

a. As a specified low-income Medicare beneficiary (SLMB)?

b. As a qualified Medicare beneficiary (QMB)?

c. For other Medicaid medical benefits?

(3) Agents shall list any other health insurance policies they have sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the last five (5) years which are no longer in force.

(4) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

(5) Upon determining that a sale will involve replacement of Medicare supplement coverage, an issuer (other than a direct response issuer), or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One (1) copy of the notice signed by the applicant and the agent, except where coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(6) The notice required by subsection (5) of this section for an issuer shall be provided in substantially the following form in no less than twelve (12) point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF MEDICARE SUPPLEMENT INSURANCE
(Insurer Name and Address)
SAVE THIS NOTICE! IT MAY BE IMPORTANT
TO YOU IN THE FUTURE.

According to (your application or information you have furnished), you intend to terminate existing health insurance and replace it with a policy to be issued by (insurer name). Your new policy provides (insert here an amount of time not less than thirty (30) days) within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all health insurance you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement coverage. You should evaluate the need for other health coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER OR AGENT (OR OTHER REPRESENTATIVE):

I have reviewed your current health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intend to

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terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason(s) (check one):

- ___ Additional benefits.
- ___ No change in benefits, but lower premiums.
- ___ Fewer benefits and lower premiums.
- ___ Other (please specify).

(a) Health conditions which you may presently have (so-called preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy (this paragraph may be modified if preexisting conditions are, in fact, covered under the new policy).

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the insurer to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been recorded properly. (If the policy or certificate is guaranteed issue, this paragraph need not appear).

(d) Do not cancel your present policy until you have your new policy and are sure that you want to keep it.

Signature of Agent or Other Representative:

Typed Name and Address of Agent:

The above "Notice to Applicant" was delivered to me on:

Date:

Applicant's Signature:

(7) [(6)] Subsection (5)(a) and (b) of this section may be omitted from the replacement notice if the replacement policy or certificate does not involve application of a new preexisting condition limitation.

Section 17. [16:] Filing Requirements for Advertising of Medicare Supplement Policies. (1) An issuer shall provide a copy of any Medicare supplement policy advertisement intended for use in Kentucky whether through written, radio, or television, to the commissioner prior to such use. Advertisements need not be approved prior to use, but an advertisement shall not be used if it has been disapproved by the commissioner and notice of the disapproval has been given to the issuer.

(2) Issuers and agents shall not use the names and addresses of persons purchased as "leads" unless the solicitation material used to obtain the names and addresses of the "leads" are filed as advertisements as required by this section. Issuers and agents shall not use such "leads" if the solicitation materials have been disapproved by the commissioner.

Section 18. [17:] Policy Delivery. If a Medicare supplement policy is not delivered by mail, the agent or issuer shall obtain a signed and dated delivery receipt from the insured. If the delivery receipt is obtained by an agent, the agent shall forward the delivery receipt to the issuer.

Section 19. [18:] Standards for Marketing. (1) An issuer, directly or through its agents or other representatives, shall:

(a) Establish marketing procedures to assure that any comparison of policies by its agents or other representatives will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp, or other appropriate

means, on the first page of the policy the following disclosure: "Notice to buyer: This policy may not cover all of your medical expenses."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

(e) Establish auditable procedures for verifying compliance with this subsection.

(2) In addition to the practices prohibited in KRS Chapter 304.12 and 806 KAR Chapter 12, the following acts and practices are prohibited:

(a) Twisting. Making any unfair or deceptive representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(3) The terms "Medicare supplement", "Medigap", "Medicare Wrap-Around", and words of similar import shall not be used unless the policy is issued in compliance with this administrative regulation.

Section 20. [19:] Appropriateness of Recommended Purchase and Excessive Insurance. (1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of recommended purchase or replacement.

(2) Any sale of Medicare supplement coverage that will provide an individual more than one (1) Medicare supplement policy or certificate is prohibited.

Section 21. [20:] Reporting of Multiple Policies. (1) On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one (1) Medicare supplement insurance policy or certificate:

- (a) Policy and certificate number; and
- (b) Date of issuance.

(2) The items set forth above shall be grouped by individual policyholder.

Section 22. [21:] Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods, and Probationary Periods in Replacement Policies or Certificates. (1) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy or certificate for similar benefits to the extent such time was spent under the original policy.

(2) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods.

APPENDIX A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR _____

TYPE 1 _____ SMSBP 2 _____

For the State of _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Person Completing This Exhibit _____

Title _____ Telephone Number _____

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Line ----	(a) Earned Premium 3 -----	(b) Incurred Claims 4 -----
1. Current year's experience		
a. Total (all policy years)		
b. Current year's issues 5		
c. Net (for reporting purposes = 1a - 1b)	-----	-----
2. Past year's experience (all policy years)	-----	-----
3. Total experience (net current year + past years' experience)	-----	-----

4. Refunds last year (excluding interest)

5. Previous since inception (excluding interest)

6. Refunds since inception (excluding interest)

7. Benchmark ratio since inception (SEE WORK-SHEET FOR RATIO 1)

8. Experienced ratio since inception

Total actual incurred claims (line 3, col b) = Ratio 2

Tot. earned prem. (line 3, col a) - refunds since inception (line 6)

9. Life years exposed since inception:

If the experienced ratio is less than the benchmark ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.

10. Tolerance permitted (obtained from credibility table):

11. Adjustment to incurred claims for credibility

ratio 3 = ratio 2 + tolerance

If ratio 3 is more than benchmark ratio (ratio 1), a refund or credit to premium is not required.

If ratio 3 is less than the benchmark ratio, then proceed.

12. Adjusted incurred claims = (tot. earned premiums (line 3, col a) - refunds since inception (line 6)) x ratio 3 (lines 11)

13. Refund = total earned premium (line 3, col a) - refunds since inception (line 6) -

Adjusted incurred claims (line 12)

benchmark ratio (ratio 1)

If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

Medicare Supplement Credibility Table	
Life Years Exposed Since Inception	Tolerance
10,000 +	0.0%
5,000 - 9,999	5.0%
2,500 - 4,999	7.5%
1,000 - 2,499	10.0%
500 - 999	15.0%
If less than 500, no credibility.	

1. Individual, group, individual Medicare select, or group Medicare select only.

2. "SMSBP" = Standardized Medicare Supplement Benefit Plan - use "p" for prestandardized plans.

3. Includes model loadings and fees charged.

4. Excludes active life reserves.

5. This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios".

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

Signature:

Name - Please Type:

Title:

Date:

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES

FOR CALENDAR YEAR _____

TYPE 1 _____ SMSBP 2 _____

FOR THE STATE OF _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Address _____

Person Completing this Exhibit _____

Title _____ Telephone Number _____

(a)3 Year	(b)4 Earned Premium	(c) Factor	(d) (b)x(c)	(e) Cumulative Loss Ratio	(f) (d)x(e)	(g) Factor	(h) (b)x(g)	(i) Cumulative Loss Ratio	(j) (h)x(i)	(o)5 Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.4
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77
TOTAL:	(k):	-----	(l):	-----	(m):	-----	(n):	-----		

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Benchmark ratio since inception: $(l + n) / (k + m)$:

- 1.: Individual, group, individual Medicare select, or group Medicare select only.
- 2.: "SMSBP" = standardized Medicare supplement benefit plan - use "p" for prestandardized plans.
- 3.: Year 1 is the current calendar year - 1; Year 2 is the current calendar year - 2; (etc.). (Example: If the current year is 1991, then: year 1 is 1990; year 2 is 1989; etc.)
- 4.: For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
- 5.: Those loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES FOR CALENDAR YEAR _____

TYPE 1 _____ SMSBP 2 _____

FOR THE STATE OF _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Address _____

Person Completing this Exhibit _____

Title _____ Telephone Number _____

(a)3 Year	(b)4 Earned Premium	(c) Factor	(d) (b)x(c)	(e) Cumulative Loss Ratio	(f) (d)x(e)	(g) Factor	(h) (b)x(g)	(i) Cumulative Loss Ratio	(j) (h)x(i)	(o)5 Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.8
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89
		-----		-----		-----		-----		
TOTAL:	(k):		(l):		(m):		(n):			

Benchmark ratio since inception: $(l + n) / (k + m)$:

- 1.: Individual group, individual Medicare select, or group Medicare select only.
- 2.: "SMSBP" = standardized Medicare supplement benefit plan - use "p" for prestandardized plans.
- 3.: Year 1 is the current calendar year - 1; Year 2 is the current calendar year - 2; (etc.). (Example: If the current year is 1991, then: year 1 is 1990; year 2 is 1989; etc.)
- 4.: For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
- 5.: Those loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

APPENDIX B FORM FOR REPORTING MEDICARE SUPPLEMENT POLICIES

Company Name:

Address:

Phone Number:

Due March 1, annually

The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.

Policy and Certificate #:

Date of Issuance:

Signature:

Name and Title (Please Type):

Date:

KENTUCKY MEDICARE SUPPLEMENT COMPARISON STATEMENT

Current Insurance _____ Annual Premium _____

(Insurer Name)

Proposed Insurance _____ Annual Premium _____

(Insurer Name)

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MEDICARE (PART A): HOSPITAL INSURANCE - COVERED SERVICES PER BENEFIT PERIOD (1)				PRIVATE INSURANCE CHECKLIST	
Services	Benefit	Medicare Pays*	You Pay*	Current Insurance Pays (Plan)**	Proposed Insurance Pays (Plan)
HOSPITALIZATION Semiprivate room and board, general nursing and miscellaneous hospital serv- ices and supplies.	First 60 days	All but \$	\$		
	61st to 90th day	All but \$ a day	\$ a day		
	91st to 150th day***	All but \$ a day	\$ a day		
	Beyond 150 days	Nothing	All costs		
POSTHOSPITAL SKILLED NURSING FACILITY CARE In a facility approved by Medicare. You must have been in a hospital for at least 3 days and enter the facility within 30 days after hospital discharge (2).	First 20 days	100% of approved amount	Nothing		
	Additional 80 days	All but \$ a day	\$ a day		
	Beyond 100 days	Nothing	All costs		
HOME HEALTH CARE	Visits limited to medically necessary skilled care.	Full cost of services; 80% of approved amount for durable medical equipment	Nothing for serv- ices; 20% of ap- proved amount for durable medical equipment		
HOSPICE CARE Available to terminally ill.	Up to days if doctor certifies need.	All but limited costs for outpatient drugs and inpatient respite care.	Limited cost shar- ing for outpatient drugs and inpa- tient respite care.		
BLOOD	Blood.	All but first 3 pints	For first 3 pints.****		
FOREIGN TRAVEL	Medically necessary emergency care in a foreign country.	Emergency hospital services in qualified Mexican or Canadian hospitals.*****	All costs not cov- ered by Medicare		

*These figures are for 19____ and are subject to change each year.

**If the policy being replaced is not a standardized policy, insert "N/A" after "Plan" and complete this column.

***60 reserve days may be used only once; days used are not renewable.

****To the extent the blood deductible is met under one part of Medicare during the calendar year, it does not have to be met under the other part.

*****Please refer to your Medicare Handbook for more information.

(1) A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital or skilled nursing facility for 60 days in a row.

(2) Medicare and private Medicare supplement insurance will not pay for most nursing home care. You pay for custodial care and most care in a nursing home.

Form LHM-2 Page 1 of 2
(November, 1991)

**APPENDIX C
KENTUCKY MEDICARE SUPPLEMENT COMPARISON STATEMENT**

MEDICARE (PART B): HOSPITAL INSURANCE - COVERED SERVICES PER CALENDAR PERIOD				PRIVATE INSURANCE CHECKLIST	
Service	Benefit	Medicare Pays	You Pay	Current Insurance Pays (Plan)*	Proposed Insurance Pays (Plan)
MEDICAL EXPENSE Physician's services, inpatient and outpatient medical services and supplies, physical and speech therapy, ambulance etc.	Medicare pays for medical services in or out of the hospi- tal.	80% of approved amount (after \$ de- ductible)	\$ Deductible** plus 20% of balance of approved amount (plus up to 15% above approved charge)***		
HOME HEALTH CARE	Visits limited to medically necessary skilled care	Full cost of services; 80% of approved amount for durable medical equipment (after \$ Deductible).	Nothing for serv- ices; 20% of ap- proved amount for durable medical equipment (after \$ deductible).		

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AT-HOME RECOVERY BENEFIT	Short-term at-home assistance with activities of daily living.****	Nothing	All costs		
OUTPATIENT HOSPITAL TREATMENT	Unlimited if medically necessary.	80% of approved amount (after \$ deductible).	Subject to deductible plus 20% of approved amount.		
BLOOD	Blood	80% of approved amount (after \$ deductible and starting with 4th pint).	First 3 pints plus 20% of approved amount (after \$ deductible)*****		
PREVENTIVE CARE-PATIENT EDUCATION	Annual physical exam, preventive testing, influenza vaccines	Screening pap smears once every 3 years; screening mammograms every 24 months.	All costs not covered by Medicare		
OUTPATIENT PRESCRIPTION DRUGS	Outpatient prescription drugs	Nothing	All costs		
FOREIGN TRAVEL	Medically necessary emergency care in foreign country.	Doctor and ambulance service in Canada and Mexico if in connection with covered inpatient	All costs not covered by Medicare		
OTHER*****					

*If the policy being replaced is not a standardized policy, insert "N/A".

**Once you have had \$ of expense for covered services in 19 , the Part B deductible does not apply to any further covered services you receive for the rest of the year.

***YOU PAY FOR charges higher than the amount approved by Medicare unless the doctor or supplier agrees to accept Medicare's approved amount as the total charge for services rendered.

****At home recovery benefits must be received in conjunction with Medicare approved home health care benefits.

*****To the extent the blood deductible is met under one part of Medicare during the calendar year, it does not have to be met under the other part.

*****Use this area to compare prestandardization and/or innovative benefits.

NOTICE TO APPLICANT:

Do not sign this form unless it has been explained to you.

Applicant:

Date:

Agent:

Date:

NOTICE TO AGENT/INSURER:

This form is to be retained by the replacing insurer and attached to the replacement policy.

Form LHM-2 Page 2 of 2
(November, 1991)

APPENDIX D DISCLOSURE STATEMENTS Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare

1. Federal Law, PL 103-432, prohibits the sale of a health insurance policy (the term policy or policies includes certificates) that duplicate Medicare benefits unless it will pay benefits without regard to other health coverage and it includes the prescribed disclosure statement on or together with the application.

2. All types of health insurance policies that duplicate Medicare shall include one (1) of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.

4. Property/casualty and life insurance policies are not considered health insurance.

5. Disability income policies are not considered to provide benefits that duplicate Medicare.

6. The federal law does not preempt state laws that are more stringent than the federal requirements.

7. The federal law does not preempt existing state form filing requirements.

(Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only)

IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

*hospital or medical expenses up to the maximum stated in the policy.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization.

*physician services.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that provide benefits for specified limited services)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

*any of the services covered by the policy are also covered by Medicare.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization.
- *physician services.
- *other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when it pays:

*hospital or medical expenses up to the maximum stated in the policy.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization.
- *physician services.
- *hospice.
- *other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare sup-

plement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization.
- *physician services.
- *hospice.
- *other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when:

*any expenses or services covered by the policy are also covered by Medicare.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization.
- *physician services.
- *hospice.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that provide benefits upon [for] both an expense-incurred [expenses-incurred] and fixed indemnity basis.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when:

*any expenses or services covered by the policy are also covered by Medicare; or

*it pays the fixed dollar amount stated in the policy and Medicare covers the same event.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization.
- *physician services.
- *hospice.
- *other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[(For long-term care policies providing both nursing home and non-institutional coverage.)]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations:

*This is long-term care insurance that provides benefits for covered nursing home and home care services.

*In some situations Medicare pays for short periods of skilled nursing home care, limited home health services and hospice care.

*This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most long-term care expenses.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have:

*For more information about long-term care insurance, review the "Shopper's Guide to Long-Term Care Insurance", available from the insurance company.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies providing nursing home benefits only.)

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations:

*This insurance provides benefits primarily for covered nursing home services.

*In some situations Medicare pays for short periods of skilled nursing home care and hospice care.

*This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Neither Medicare nor Medicare supplement insurance provides benefits for most nursing home expenses.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have:

*For more information about long-term care insurance, review the "Shopper's Guide to Long-Term Care Insurance", available from the insurance company.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies providing home benefits only.)

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations:

*This insurance provides benefits primarily for covered home services.

*In some situations Medicare will cover some health-related services in your home and hospice care which may also be covered by this insurance.

*This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Neither Medicare nor Medicare supplement insurance provides benefits for most services in your home.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have:

*For more information about long-term care insurance, review the "Shopper's Guide to Long-Term Care Insurance", available from the insurance company.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.]

(Original disclosure statement for other health insurance policies not specifically identified in the preceding [previous] statements.)

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when it pays:

*the benefits stated in the policy and coverage for the same event is provided by Medicare.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization.

*physician services.

*hospice.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.)

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization

*physician services

*other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare," available from the insurance company.

*For help in understanding your health insurance, contact your

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state insurance department or state senior insurance counseling program.
(Alternative disclosure statement for policies that provide benefits for specified limited services.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization
- *physician services
- *other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare," available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one (1) of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization
- *physician services
- *hospice
- *other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare," available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed amount, regardless of your expenses,

if you meet the policy conditions, for one (1) of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization
- *physician services
- *hospice
- *other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare," available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays limited reimbursements for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization
- *physician services
- *hospice
- *other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare," available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization
- *physician services
- *hospice
- *other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare," available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.)

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization

*physician services

*hospice

*other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare," available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

GEORGE NICHOLS III, Commissioner

RONALD B. MCCLOUD, Secretary

GALE PEARCE, General Counsel

APPROVED BY AGENCY: July 13, 1999

FILED WITH LRC: July 14, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 24, 1999, at 2 p.m. at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, 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 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: Sharron S. Burton, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, PH: (502) 564-6032, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Sharron S. Burton

(1) Type and number of entities affected: This administrative regulation affects the 73 insurers that are currently approved to sell Medicare supplement insurance policies in the State of 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, to the extent

available from the public comments received: The department has received no public comments regarding this issue.

(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 department has received no public comments regarding this issue.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (not any effects upon competition) for the:

1. First year following implementation: This administrative regulation implements changes to the Medicare supplement policies currently being sold. Therefore, insurers will be required to adjust the current policies being sold to reflect the amendments in this administrative regulation. In addition, insurers authorized to sell Medicare supplement policies will be required to adjust company procedures to incorporate guarantee issue requirements for eligible persons.

2. Second and subsequent years: This administrative regulation does not require additional changes beyond those required during the first year following implementation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The department does not anticipate that this administrative regulation will have any effect on the administrative body's costs or savings.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This administrative regulation does not impose any reporting or paperwork requirements upon the department.

(4) Assessment of anticipated effect on state and local revenues: The department does not anticipate that this administrative regulation will have any effect on state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the department of Insurance will be used to implement and enforce this administrative 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: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: An administrative regulation governing Medicare supplement insurance policies currently exists. It is necessary for the department to incorporate changes made by the federal government to Medicare supplement insurance policies into the existing administrative regulation. No other alternatives were considered.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation makes the high deductible Medicare Plans F and J available to the public. In addition, this administrative regulation prohibits an insurer from denying or conditioning the issuance or effectiveness of certain Medicare supplement policies to eligible persons.

(b) State whether a detrimental effect on environment and public health would result if not implemented: If this administrative regulation were not implemented, a detrimental effect on public health may result.

(c) If detrimental effect would result, explain detrimental effect: If this administrative regulation were not implemented, eligible persons may be denied Medicare supplement coverage or the insurer may place conditions upon issuance or effectiveness of that coverage in a manner that is not permitted.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The department is not aware of any statute, administrative regulation, or government policy which may conflict, overlap, or duplicate this administrative regulation.

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- (a) Necessity of proposed regulation if in conflict;
- (b) If in conflict, was effort made to harmonized the proposed administrative regulation with conflicting provisions:
- (10) An additional information or comments: None
- (11) TIERING: Is tiering applied? Tiering was not applied since this administrative regulation applies to all insurers approved to sell Medicare supplement policies in the State of Kentucky.

CABINET FOR HEALTH SERVICES Office of Certificate of Need (Amendment)

900 KAR 6:050. Certificate of need administrative regulation.

RELATES TO: KRS 216B.010 to 216B.130, 216B.455, 216B.990
STATUTORY AUTHORITY: KRS [19A.350;] 194A.030, 194A.060, 216B.040

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is required by statute to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary. This administrative regulation sets forth those administrative regulations necessary to the orderly administration of the Certificate of Need Program.

Section 1. Definitions. (1) "Administrative escalation" means an approval from the cabinet to increase the capital expenditure authorized on a previously issued certificate of need.

(2) "Cabinet" means the Cabinet for Health Services.

(3) "Certificate of Need Newsletter" means the monthly newsletter published by the cabinet regarding certificate of need matters.

(4) "Days" means calendar days.

(5) "Division of Licensing and Regulation" means the Cabinet for Health Services, Office of the Inspector General, Division of Licensing and Regulation.

(6) "Emergency circumstances" means situations that pose an imminent threat to the life, health, or safety of a [any] citizen of the Commonwealth.

(7) "Formal review" means the review of [these] applications for certificate of need which are reviewed within ninety (90) days from the commencement of the review as provided by KRS 216B.062(1) and which are reviewed for compliance with the review criteria set forth at KRS 216B.040 and Section 6 [7] of this administrative regulation.

(8) "Improvement" means change or addition to the premises of an existing facility that enhances its ability to deliver the services that it is authorized to offer under its existing license or an approved certificate of need.

(9) "Industrial ambulance service" means a Class I specialized provider licensed by the cabinet to serve the employees, customers, or patrons of a business, race track, recreational facility or similar organization excluding a health care facility.

(10) "Long-term care beds" means nursing home beds, intermediate care beds, skilled nursing beds, nursing facility beds, and Alzheimer disease facility beds.

(11) "Nonsubstantive review" means an expedited review of an application for certificate of need which has been granted nonsubstantive review status pursuant to the provisions of KRS 216B.095 and [Section 8 of] this administrative regulation [if granted status pursuant to KRS 216B.095(3)(f)].

(12) "Owner" means the person as defined in KRS 216B.015 who is applying for the certificate of need and will become the licensee of the proposed health service or facility.

(13) "Proposed service area" means the geographic area [and population] the applicant proposes to serve.

(14) [(13)] "Public information channels" means the Office of Communications in the Cabinet for Health Services.

(15) [(14)] "Public notice" means notice given through:

(a) Public information channels; or

(b) The cabinet's Certificate of Need Newsletter.

(16) [(15)] "Show cause hearing" means a hearing before the cabinet at which a person is required to explain or demonstrate why the person should not be required to obtain a certificate of need or not be subject to the penalties provided by KRS 216B.990 for specific

violations of the provisions of KRS Chapter 216B.

Section 2. [Letter of Intent. (1) The Certificate of Need Letter of Intent (Form #1) shall be filed with the cabinet by all applicants for a certificate of need. This shall:

(a) Include those applicants requesting nonsubstantive review under the provisions of Section 8 of this administrative regulation.

(b) Not include those applicants requesting nonsubstantive review under the provisions of KRS 216B.095(a) through (e).

(2) Upon receipt of a letter of intent, the cabinet shall provide the sender with written acknowledgment of receipt of the letter and shall publish notice of such receipt in the next published certificate of need newsletter.

(3) An application for a certificate of need shall not be processed until such time as the letter of intent has been on file with the cabinet for thirty (30) days.

Section 3. [Certificate of Need Application. (1) An applicant [All applicants] for a certificate of need shall file an application with the cabinet on the appropriate Certificate of Need Application (forms 1A, 1B or 1C [2A, 2B, or 2G]).

(2) When filing an application for certificate of need, the applicant shall file an original and one (1) copy [two (2) copies] of the appropriate certificate of need application, together with the prescribed fee set forth in 900 KAR 6:020 with the cabinet on or before the deadlines established by Section 3 [4] of this administrative regulation.

(3) Neither formal nor nonsubstantive review of an application for a certificate of need shall begin until the application has been deemed complete by the cabinet.

(4) The cabinet shall not deem an application complete unless:

(a) The applicant has provided the cabinet with all of the information necessary to complete the application; or

(b) The applicant has declined to submit the requested information and has requested that its application be reviewed as submitted.

(5) Once an application has been declared complete, the applicant may not submit additional information regarding the application unless the information is introduced at a public hearing.

(6) Once an application has been declared complete, it shall not be amended to:

(a) Increase the scope of the project;

(b) Increase the amount of the capital expenditure;

(c) Expand the size of the proposed service area;

(d) Change the location of the health facility or health service; or

(e) Change the owner [legal applicant], unless the application involves a licensed health facility and a change of ownership with appropriate notice has occurred after the application was submitted.

(7) An application that has been declared complete, may only be amended at a public hearing, and may then only be amended to:

(a) Decrease the scope of the project;

(b) Decrease the amount of the capital expenditure; or

(c) Decrease the proposed service area.

(8) Applicants who have had proposals for certificates of need approved under the nonsubstantive review provisions of Section 7 [8] of this administrative regulation may request the cabinet to change the specific location to be designated on the certificate of need provided that the location is within the county listed on the certificate of need application, and provided that the applicant file a written request with the cabinet within thirty (30) days of the date of approval. Such request shall include the reason why the change is necessary.

(9) [If an application is not filed with the cabinet within one (1) year of the date of the filing of a letter of intent, the letter of intent shall expire, and the applicant shall file a new letter of intent at least thirty (30) days prior to submitting an application.

(10) [If an application is withdrawn, the applicant shall file a new letter of intent at least thirty (30) days prior to resubmitting an application.

[(11)] An application that is not declared complete within a year from the date that it is filed shall expire and shall not be placed on public notice or reviewed for approval.

Section 3. [4.] Timetable for Submission of Applications. (1) The cabinet's timetable for giving public notice for applications deemed complete for both formal review and for applications granted nonsub-

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stantive review status pursuant to KRS 216B.095(3)(f) and Section 7 [8] of this administrative regulation shall be as follows:

(a) Public notice for organ transplantation, magnetic resonance imaging, lithotripter, megavoltage radiation equipment, cardiac catheterization, open heart surgery, and new technological developments shall be given on the third Thursday of the following months:

1. January; and

2. July. [Public notice for hospital, psychiatric, comprehensive physical rehabilitation, chemical dependency and psychiatric residential treatment facilities, ambulatory care centers, freestanding ambulatory surgical centers, and birthing centers shall be given on the third Thursday of the following months:

1. February; and

2. August.]

(b) Public notice for hospice and home health agencies shall be given on the third Thursday of the following months:

1. February [March]; and

2. August [September].

(c) [Public notice for mobile services shall be given on the third Thursday of the following months:

1. April; and

2. October.

(d) Public notice for ground ambulance providers, mobile services and rehabilitation agencies, [and day health care programs;] shall be given on the third Thursday of the following months:

1. March [May]; and

2. September [November].

(d) Public notice for day health care programs and personal care beds shall be given on the third Thursday of the following months:

1. April; and

2. October.

(e) Public notice for hospital, psychiatric, comprehensive physical rehabilitation, chemical dependency facilities, ambulatory care centers, freestanding ambulatory surgical centers, and birthing centers shall be given on the third Thursday of the following months:

1. May; and

2. November.

(f) Public notice for long-term care beds [personal care beds and rehab agencies] shall be given on the third Thursday of the following month: [months:

1. June; and

2. December].

(f) Public notice for long-term care beds and intermediate care beds for Mental Retardation and Developmentally Disabled facilities shall be given on the third Thursday of June;]

(g) Public notice for intermediate care beds for mental retardation and developmentally disabled facilities and psychiatric residential treatment facilities (PRTF) shall be given on the third Thursday of the following months:

1. June; and

2. December. [Public notice for organ transplantation, magnetic resonance imaging, lithotripter, megavoltage radiation equipment, cardiac catheterization, open heart surgery, and new technological developments shall be given on the third Thursday of the following months:

1. January; and

2. July.]

(h) A proposal [Any proposals] not listed above shall be placed in the cycle that the cabinet determines to be most appropriate.

(2) In order to have an application deemed complete and placed on public notice, an application shall [must] be filed with the cabinet at least fifty (50) days prior to the date of the desired public notice.

Section 4. [5.] Certificate of Need Review. (1) Prior to being reviewed for the approval or denial of a certificate of need, all applications for certificate of need shall be reviewed for completeness pursuant to Section 5 [6] of this administrative regulation.

(2) Unless granted nonsubstantive review status, an application for a certificate of need shall be reviewed for approval or denial of the certificate of need according to the formal review criteria set forth at Section 6 [7] of this administrative regulation.

(3) If granted nonsubstantive review status under Section 7 [8] of

this administrative regulation, an application for a certificate of need shall be reviewed for approval or denial of the certificate of need according to the nonsubstantive review criteria set forth at Section 7 [8] of this administrative regulation.

Section 5. [6.] Completeness Review. (1) Fifteen (15) days prior to the deadline for deeming an application complete for the next appropriate batching cycle, the cabinet shall conduct an initial completeness review to determine whether the application is complete for applications for both formal review and nonsubstantive review granted pursuant to Section 7 [8] of this administrative regulation. Applications granted nonsubstantive review status pursuant to KRS 216B.095(3)(a) through (e) shall be reviewed within fifteen (15) days of receipt.

(2) If the cabinet finds that the application for formal review is complete, the cabinet shall:

(a) Notify the applicant in writing that the application has been deemed complete and that review of the application for the approval or denial of a certificate of need shall begin upon public notice being given; and

(b) Give public notice in the next appropriate certificate of need newsletter that review of the application for approval or denial of a certificate of need has begun.

(3) If the cabinet finds that the application for nonsubstantive review is complete, the cabinet shall notify the applicant in writing that the application has been deemed complete and that review of the application for the approval or denial of a certificate of need shall begin upon public notice being given.

(4) A decision to grant or deny nonsubstantive review status shall be made within ten (10) days of the date the applicant is notified that the application has been deemed complete.

(5) The cabinet shall give public notice for applications granted nonsubstantive review status under Section 7 [8] of this administrative regulation in the next appropriate certificate of need newsletter that status has been granted and that review of the application for approval or denial of a certificate of need has begun. Public notice for applications granted nonsubstantive review status according to KRS 216B.095(3)(a) through (e) shall [will] be mailed to affected persons.

(6) Deeming an application complete means [only] that the applicant has minimally responded to the necessary items on the application. It is not determinative of the accuracy of, or weight to be given to, the information contained in the application and shall not imply that the application has met the review criteria for approval of a certificate of need.

(7) If the cabinet finds that the application is incomplete, the cabinet shall provide the applicant with written notice of the information necessary to complete the application and shall notify the applicant that the cabinet shall [will] not deem the application complete unless within ten (10) days of the date of the cabinet's request for additional information:

(a) The applicant submits the information necessary to complete the application by the date specified in the request; or

(b) The applicant requests in writing that the cabinet review its application as submitted.

(8) If, upon the receipt of the additional information, the cabinet finds that the application is complete, the cabinet shall, for applicants proceeding under formal review:

(a) Notify the applicant in writing that:

1. The application for formal review has been deemed complete; and

2. Review of the application for the approval or denial of a certificate of need shall begin upon public notice being given; and

(b) Give public notice in the next appropriate certificate of need newsletter that review of the application for approval or denial of a certificate of need has begun.

(9) If, upon the receipt of the additional information requested, the cabinet finds that an application for nonsubstantive review is complete, the cabinet shall notify the applicant in writing that:

(a) The application has been deemed complete and that review of the application for the approval or denial of a certificate of need shall begin upon public notice being given; and

(b) A decision to grant or deny nonsubstantive review status shall be made within ten (10) days of the date that the application was

deemed complete.

(c) The cabinet shall give public notice in the next appropriate certificate of need newsletter for applications granted nonsubstantive review status under Section 7 [8] of this administrative regulation, that status has been granted and that review of the application for approval or denial of a certificate of need has begun. Public notice for applications granted nonsubstantive review status according to KRS 216B.095(3)(a) through (e) shall [will] be mailed to affected persons.

(10) If the application, or if the information submitted is insufficient to complete the application, the cabinet shall:

(a) Request the information necessary to complete the application; and

(b) Inform the applicant that the application shall not be deemed complete and shall not be placed on public notice until:

1. The applicant submits the information necessary to complete the application; or

2. The applicant requests in writing that its application be reviewed as submitted.

(11) Once an application has been deemed complete, an applicant shall not submit additional information to be made part of the public record unless:

(a) The information is introduced at a hearing; or

(b) In the case of a deferred application, the additional information is submitted at least twenty-five (25) days prior to the date that the deferred application is placed on public notice.

(12) Deeming an application complete means [only] that the application is sufficiently complete to be reviewed for approval or disapproval. It is not determinative of the accuracy of, or weight to be given to, the information contained in the application and shall not imply that the application has met the review criteria for approval.

Section 6. [7-] Considerations for Formal Review. In determining whether to approve or deny a certificate of need, the cabinet's review of applications under formal review shall be limited to the following considerations:

(1) Consistency with plans.

(a) Whether the proposal is consistent with the current state health plan.

1. Applications proposing to relocate [transfer] surgical services from one (1) licensed health facility to a newly established or other health facility and either facility is owned by the existing facility with surgical services shall be considered consistent with the state health plan if the existing facility has not added to its complement of operating rooms within twelve (12) months prior to filing the application for relocation and the following conditions are met:

a. The newly established surgical services are located:

(i) On the existing facility's licensed premises; or

(ii) In the same county as the existing health facility and where there are no other licensed providers of surgical services in the county; and

b. The existing facility with surgical services which relocated the rooms and the newly established surgical service shall not add operating rooms for one (1) year following the date that the newly established surgical services commence operations.

2. An application by an acute care hospital to convert acute care beds to psychiatric beds shall be consistent with this plan if the following conditions are met:

a. The occupancy of acute care beds in the applicant's facility is less than seventy (70) percent in the latest published utilization report; and

b. All of the proposed psychiatric care beds are being converted from licensed acute care beds; and

c. All of the psychiatric care beds will be converted and implemented on site at the applicant's existing licensed acute care facility; and

d. All of the converted psychiatric care beds shall be dedicated exclusively to the treatment of geriatric patients, aged sixty-five (65) or older; and

e. The hospital shall establish distinct admission and discharge criteria for admitting only those patients who have both mental and physical conditions who would be excluded from treatment in a regular adult psychiatric unit; and

f. The staff of the unit shall include a multidisciplinary team of

specialists involving psychiatry and internal medicine with specialization in the treatment of geriatrics and nursing personnel specially trained in psychiatric and medical geriatric patient care; and

g. The number of beds to be converted shall be based on the population age sixty-five (65) plus in the counties proposed to be served; and

h. The applicant agrees in writing not to seek medicaid certification for the beds converted.

3. Applications proposing to add acute care beds shall be consistent with the State Health Plan if the following conditions are met:

a. The applicant shall document that utilization at its facility has reached functional capacity. In calculating functional capacity, consideration shall be given to factors such as the mix of private and semiprivate rooms, patient matching limitations such as gender or the need for isolation beds required to address emergency patient needs, and limits created by special purpose acute units, such as obstetrics.

b. The applicant shall document that the transfer of beds from special purpose acute units is not feasible because occupancy is greater than 65 percent or, if the occupancy is less than sixty-five (65) percent, the transfer of underutilized beds is not sufficient to meet the hospital's total additional acute care bed need.

c. The applicant shall document an overall acute care occupancy rate in the county of sixty-five (65) percent or greater for the twelve (12) prior months.

d. The applicant shall document that:

(i) A new service established in the last eight (8) years has resulted in increasing the number of inpatient days at the hospital by more than three (3) percent; or

(ii) A three (3) percent or greater increase in inpatient volume has occurred from out-of-state admissions.

e. The maximum number of acute care beds that may be approved shall be based on volume projected five (5) years from the CON filing. Approval shall be based on the higher of:

(i) The applicant's credible forecast of future utilization; or

(ii) A regression analysis projection of patient day trends over a five (5) year time frame.

4. An application proposing to convert psychiatric and/or CD beds to acute care shall be consistent with the State Health Plan if the application meets the following conditions:

a. The most recently published data indicates that the occupancy for existing acute care beds for the applicant's facility was sixty-five (65) percent or greater; and

b. The applicant has existing licensed acute care and psychiatric care and/or chemical dependency beds; and

(i) All of the proposed acute care beds are being converted from licensed psychiatric and/or chemical dependency beds;

(ii) The occupancy of psychiatric and/or chemical dependency beds is less than sixty (60) percent as computed from the latest published data; and

(iii) The additional acute care beds will be converted and implemented on site at the applicant's existing licensed acute care facility. [shall not be reviewed for consistency with the state health plan but shall be reviewed under the nonsubstantive review provisions of Section 8 of this administrative regulation.]

(b) Whether the proposal is consistent with applicable biennial budget authorizations and limitations.

(c) Whether the proposal would adversely impact health care costs in the Commonwealth.

(d) In determining whether an application is consistent with the State Health Plan, the cabinet shall apply the latest inventories and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the cabinet's decision.

(2) Need.

(a) Whether the applicant has identified a need for the proposal in the geographic area defined in the application.

(b) Whether the applicant has demonstrated that it is able to meet the need identified in the geographic area defined in the application.

(3) Accessibility. Whether the health facility or health service proposed in the application will be accessible in terms of timeliness, amount, duration, and personnel sufficient to provide the services proposed.

(4) Interrelationships and linkages. Whether the proposal shall

serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, and whether the proposal is accompanied by assurance of effort to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system.

~~[(a) Whether it is necessary for the applicant to establish linkages with other health services, health facilities, and elements of the health care system within the region and the state in order to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system within the Commonwealth.~~

~~[(b) If it is necessary for the applicant to establish linkages with other health services, health facilities, and elements of the health care system in the region and the state in order to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system within the Commonwealth, whether such linkages have been or will be established.]~~

(5) Costs, economic feasibility, and resource availability.

(a) Whether it is economically feasible for the applicant to implement and operate the proposal.

(b) If applicable, whether the cost of alternative ways of meeting the need identified in the geographic area defined in the application would be a more effective and economical use of resources.

(6) Quality of services.

(a) Whether the applicant is prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements established by the cabinet.

(b) Whether the applicant has the ability to comply with applicable licensure requirements. The fact that there is not an applicable licensure category shall not constitute grounds for disapproving an application.

Section 7. [8:] Nonsubstantive Review. (1) In addition to the projects specified in KRS 216B.095(3)(a) through (e), the cabinet may grant nonsubstantive review status to an application for which a certificate of need is required in circumstances wherein:

~~[(a)] the proposal involves the establishment or expansion of a health facility or health service for which there are no standards or review criteria in the state health plan.~~

~~[(b) The proposal involves the establishment or expansion of an ambulatory surgery center by an ambulatory surgery center that is existing and operating by July 15, 1997, if such ambulatory surgery center was initially established as a private office or clinics of physicians.~~

~~[(c) The proposal involves the transfer of surgical services from one (1) licensed health facility to another licensed health facility or from one (1) licensed health facility to a newly established health facility.]~~

(2) If an application is denied nonsubstantive review status, the application shall automatically be placed in the formal review process.

(3) If an application is granted nonsubstantive review status, notice of the decision to grant nonsubstantive review status shall be given to the applicant and all known affected persons.

(4) If an application is granted nonsubstantive review status, any affected person other than the applicant may request a hearing by filing a request for a hearing within ten (10) days of the notice of the decision to conduct nonsubstantive review. The provisions of Section 15 [16] of this administrative regulation shall govern the conduct of all nonsubstantive review hearings.

(5) If an application for certificate of need is granted nonsubstantive review status there shall be a presumption that the facility or service is needed and applications granted nonsubstantive review status shall not be reviewed for consistency with the State Health Plan. The cabinet shall approve applications for certificate of need that have been granted nonsubstantive review status, unless the presumption of need is rebutted by clear and convincing evidence that there is not a need for the proposed facility or service in the geographic area defined in the application.

(6) The cabinet shall approve or disapprove an application which has been granted nonsubstantive review status within thirty-five (35) days of the date that notice is given that nonsubstantive review status has been granted.

(7) If a certificate of need is denied following nonsubstantive review,

the applicant may:

(a) Request that the cabinet reconsider its decision pursuant to KRS 216B.090 and Section 16 [17] of this administrative regulation;

(b) Request that the application be placed in the next cycle of the formal review process; or

(c) Seek judicial review pursuant to KRS 216B.115.

Section 8. [9:] Notice of Decision. (1) The cabinet shall notify the applicant and any party to the proceeding of the final action on a certificate of need application.

(2) Notification of approval shall be in writing and shall include:

(a) Verification that the review criteria for approval have been met;

(b) Specification of any terms or conditions limiting any certificate of need approval, including but not limited to, limitations regarding certain services or patients. This specification shall be listed on the facility or service's certificate of need and license;

(c) Notice of appeal rights; and

(d) The amount of capital expenditure authorized, where applicable.

(3) Written notification of disapproval shall include:

(a) The reason for the disapproval; and

(b) Notice of appeal rights.

(4) An application for certificate of need that is disapproved shall not be refiled for a period of twelve (12) months from the original date of filing, absent a showing of a significant change in circumstances.

Section 9. [10:] Deferral of an Application. (1) An applicant may defer review of an application by notifying the cabinet in writing of its intent to defer review. If the application has been granted nonsubstantive review status, the notice to defer shall be filed no later than five (5) days prior to the date that the decision is due on the application unless a hearing has been scheduled. If a hearing has been scheduled, the notice to defer shall be filed no later than six (6) days prior to the date of the hearing. If the application is being reviewed under formal review, the notice to defer shall be filed no later than ten (10) days prior to the date that the decision is due on the application unless a hearing has been scheduled. If a hearing has been scheduled, the notice to defer shall be filed eight (8) days prior to the date of the hearing. If a hearing has been scheduled, the applicant shall also notify all parties to the proceedings in writing of the applicant's intent to defer the application.

(2) If deferral is requested, the application shall be deferred to the next regular batching cycle and shall be placed on public notice pursuant to the timetables set forth at Section 3 [4] of this administrative regulation.

(3) If an application is deferred, an applicant may update its application by providing additional information to the cabinet at least twenty-five (25) days prior to the date that the deferred application is placed on public notice.

(4) In order for a hearing to be held on a deferred application, a hearing shall be requested by either the applicant or an affected person within:

(a) Ten (10) days of the deferred application being placed on public notice if the application has been granted nonsubstantive review status; or

(b) Fifteen (15) days of the deferred application being placed on public notice if the application is being reviewed under the provision of formal review.

(5) An application shall not be deferred more than one (1) time unless the applicant can document that state statute, administrative regulation, State Health Plan or the cabinet's utilization statistics affecting the application have changed in the applicant's favor. Under no circumstances shall an application be deferred more than twice.

Section 10. [11:] Withdrawal of an Application. (1) An applicant may withdraw an application for certificate of need prior to the entry of a decision to deny or approve the application by notifying the cabinet in writing of the decision to withdraw the application.

(2) If a hearing has been scheduled or held on the application, the applicant shall also notify all parties to the proceedings in writing of the applicant's decision to withdraw the application.

~~[(3) If an application is withdrawn, the applicant shall file a new letter of intent before resubmitting the application.]~~

Section 11. [12:] Emergency Circumstances. (1) If an emergency circumstance arises, a person may proceed to alleviate the emergency without first obtaining a certificate of need provided:

(a) The person is licensed by the cabinet to provide the service necessary to alleviate the emergency; and

(b) The cabinet is notified in writing within five (5) days after the commencement of the service required to alleviate the emergency.

(2) The notice to the cabinet shall contain the following information:

(a) A detailed description of the emergency;

(b) The steps taken to alleviate the emergency;

(c) The location or geographic area where the emergency service is being provided; and

(d) If applicable, the name and addresses of the person to whom emergency services are being provided.

(3) If the provision of service to meet the emergency circumstance is required to continue beyond thirty (30) days from the date that the notice is filed with the cabinet, the person providing the emergency service shall file an application for a certificate of need for the next appropriate public notice pursuant to Section 3 of this administrative regulation.

(4) The person providing the emergency service may continue to alleviate the emergency circumstances until such time as the emergency ceases to exist or the cabinet issues a final decision to approve or disapprove the application for certificate of need.

Section 12. [13:] Transfers of Certificates of Need. (1) Certificates of need issued to an existing facility for purposes other than replacement of the facility may be transferred to the new owner of the facility if the change of ownership occurs prior to implementation of the project for which the certificate of need was issued.

(2) The purchase of all capital stock or a controlling interest of capital stock of a person who is the holder of an approved certificate of need for the establishment of a new health facility shall not constitute the sale, trade or transfer of a certificate of need to another person for purposes of KRS 216B.061(1)(h) and 216B.0615.

Section 13. [14:] Location of New and Replacement Facilities. A certificate of need approved for the establishment of a new facility or the replacement of an existing facility is valid only for the location stated on the certificate.

Section 14. [15:] Filings. (1) The filing of all documents required by this administrative regulation shall be made by filing such documents with the Office of Certificate of Need, HS1E-D, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621 on or before 4:30 p.m. eastern time on the due date.

(2) Filings of documents, other than certificate of need applications and proposed hearing reports, may be made by facsimile transmission provided that:

(a) The documents are received by the cabinet by facsimile transmission on or before 4:30 p.m. eastern time on the date due; and

(b) An original document is filed with the cabinet on or before 4:30 p.m. eastern time on the next working day after the due date.

(4) The Office of Certificate of Need shall endorse by file stamp the date that each filing is received and such endorsement shall constitute the filing of the document.

(5) In computing any period of time prescribed by these administrative regulations, the date of notice, decision or order shall not be included.

(6) The last day of the period so computed is to be included, unless it is a Saturday, a Sunday or legal state holiday, in which event the period runs until 4:30 p.m. eastern time of the first working day following a Saturday, Sunday, or legal state holiday.

Section 15. [16:] Hearings. (1) Hearings on certificate of need matters shall be held by hearing officers from the Cabinet for Health Service's Administrative Hearings Branch. A hearing officer shall not act on any matter in which the hearing officer has a conflict of interest as defined in KRS 45A.340. Any party may file with the cabinet a petition for removal based upon a conflict of interest supported by affidavit.

(2) The hearing officer shall preside over the conduct of each

hearing and shall regulate the course of the proceedings in a manner which shall [will] promote the orderly and prompt conduct of the hearing.

(3) Notice of the time, date, place and subject matter of each hearing shall be:

(a) Mailed to the applicant and all known affected persons providing the same or similar service in the proposed service area, via the CON newsletter when applicable not less than ten (10) days prior to the date of the hearing; and

(b) Provided to members of the general public through public information channels.

(4) A public hearing shall be canceled if the person or persons who requested the hearing withdraw [withdrawn] their request [request(s)] by giving written notification to the Office of Certificate of Need that the hearing is no longer required. The consent of affected persons who have not requested a hearing shall not be required in order for a hearing to be canceled.

(5) Any dispositive motion made by a party to the proceedings shall be filed with the hearing officer three (3) working days prior to the scheduled date of the hearing.

(6) The hearing officer may convene a preliminary conference.

(a) The purposes of the conference are to:

1. Formulate and simplify the issues;

2. Identify additional information and evidence needed for the hearing; and

3. Dispose of pending motions.

(b) A written summary of the preliminary conference and the orders thereby issued shall be made a part of the record.

(c) The hearing officer may tape record the conference or if requested by a party to the proceedings arrange for a stenographer to be present at the expense of the requesting party.

(d) During the preliminary conference, the hearing officer may:

1. Instruct the parties to:

a. Formulate and submit a list of genuine contested issues to be decided at the hearing;

b. Raise and address issues that can be decided before the hearing; or

c. Formulate and submit stipulations to facts, laws, and other matters.

2. Prescribe the manner and extent of the participation of the parties or persons who shall participate;

3. Rule on any pending motions for discovery or subpoenas; or

4. Schedule dates for the submission of prefiled testimony, further preliminary conferences, and submission of briefs and documents.

(7) At least five (5) days prior to the scheduled date of any non-substantive review hearings and at least seven (7) days prior to the scheduled date of all other hearings, all persons wishing to participate as a party to the proceedings shall file an original and one (1) copy [two-(2)-copies] of the following for each affected application with the cabinet and serve copies on all other known parties to the proceedings:

(a) Notice of Appearance, Form #2;

(b) Witness List, Form #3;

(c) [(b)] Exhibit List, Form #4 and attached exhibits[-and

(c) Notice of Appearance, Form #5].

(8) The hearing officer shall convene the hearing and shall state the purpose and scope of the hearing or the issues upon which evidence shall be heard. All parties appearing at the hearing shall enter an appearance by stating their names and addresses.

(9) Each party shall have the opportunity to:

(a) Present its case;

(b) Make opening statements;

(c) Call and examine witnesses;

(d) Offer documentary evidence into the record;

(e) Make closing statements; and

(f) Cross-examine opposing witnesses on:

1. Matters covered in direct examination; and

2. At the discretion of the hearing officer, upon other matters relevant to the issues.

(10) A party that is a corporation shall be represented by an attorney licensed to practice in the Commonwealth of Kentucky.

(11) The hearing officer may:

(a) Allow testimony or other evidence on issues not previously

identified in the preliminary order which may arise during the course of the hearing, including any additional petitions for intervention which may be filed;

(b) Act to exclude irrelevant, immaterial or unduly repetitious evidence; and

(c) Question any party or witness.

(12) The hearing officer shall not be bound by the Kentucky Rules of Evidence. Relevant hearsay evidence may be allowed, at the discretion of the hearing officer.

(13) The hearing officer shall have discretion to designate the order of presentation of evidence and the burden of proof as to persuasion.

(14) Witnesses shall be examined under oath or affirmation.

(15) Witnesses may, at the discretion of the hearing officer:

(a) Appear through deposition or in person; and

(b) Provide written testimony in accordance with the following:

1. The written testimony of a witness shall be in the form of questions and answers or a narrative statement;

2. The witness shall authenticate the document under oath; and

3. The witness shall be subject to cross-examination.

(16) The hearing officer may accept documentary evidence in the form of copies of excerpts if the original is not readily available, provided that upon request parties shall be given an opportunity to compare the copy with the original and provided that the documents to be considered for acceptance are listed on and attached to the party's Exhibit List (Form #4) and filed with the hearing officer and other parties at least seven (7) working days before the hearing for formal review applications and five (5) working days for nonsubstantive review applications.

(17) A document may not be incorporated into the record by reference without the permission of the hearing officer. Any referenced document shall be precisely identified.

(18) The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's special knowledge.

(19) The hearing officer may permit a party to offer or request a party to produce additional evidence or briefs of issues as part of the record within a designated time after the conclusion of the hearing. During this period, the hearing record shall remain open, and the conclusion of the hearing shall occur when the additional information is filed.

(20) In the case of a hearing on an application for a certificate of need, the hearing officer may, upon the agreement of the applicant, continue a hearing beyond the review deadlines established by KRS 216B.062(1) and 216B.095(1).

(21) The cabinet shall forward a copy of the hearing officer's final decision by U.S. mail to each party to the proceedings. The original hearing decision shall be filed in the administrative record maintained by the cabinet.

Section 16. [47:] Requests for Reconsideration. (1) In order to be considered, requests for reconsideration shall be filed within fifteen (15) days of the date of the notice of the cabinet's final decision relating to:

(a) Approval or disapproval of an application for a certificate of need;

(b) An advisory opinion entered after a public hearing; or

(c) Revocation of a certificate of need.

(2) A copy of the request for reconsideration shall be served by the requester on all parties to the proceedings.

(3) A party to the proceedings shall have seven (7) days from the date of service of the request for reconsideration to file a response to the request with the cabinet.

(4) The cabinet shall enter a decision to grant or deny a request for reconsideration within thirty (30) days of the request being filed.

(5) If reconsideration is granted:

(a) A hearing shall be held by the cabinet in accordance with the provisions of Section 15 [46] of this administrative regulation within thirty (30) days of the date of the decision to grant reconsideration; and

(b) A final decision shall be entered by the cabinet no later than thirty (30) days following the conclusion of the hearing.

(6) If reconsideration is granted on the grounds that a public

hearing was not held pursuant to KRS 216B.085, the applicant shall have the right to waive the reconsideration hearing if the deficiencies in the application can be adequately corrected by submission of written documentation to be made a part of the record without a hearing.

Section 17. [48:] Show Cause Hearings. (1) The cabinet may conduct a show cause hearing on its own initiative or at the request of an affected [any] person, to include hearings requested pursuant to *Humana of Kentucky v. NKC Hospitals, Ky.*, 751 S.W.2d 369 (1988), in order to determine whether a person has established or is operating a health facility or health service in violation of the provisions of KRS Chapter 216B or these administrative regulations or is subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(a) In order for a show cause hearing to be held, a request for a show cause hearing submitted by an affected person shall be accompanied by affidavit(s) or other documentation which demonstrate that there is probable cause to believe that a person has established or is operating a health facility or health service in violation of the provisions of KRS Chapter 216B or these administrative regulations or is subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(b) If a show cause hearing is held, the person being charged shall have the burden of showing cause why that person should not be found to have established or to be operating a health facility or health service in violation of the provisions of KRS Chapter 216B or these administrative regulations, or should not be found to be subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(2)(a) The cabinet shall conduct a show cause hearing based on its own investigation pursuant to an annual licensure inspection or otherwise which reveals a possible violation of the terms or conditions which are a part of a certificate of need approval and license.

(3) (b) The cabinet shall also conduct a show cause hearing regarding terms and conditions which are a part of a certificate of need approval and license at the request of any person.

(4) (e) The show cause hearing regarding the terms and conditions shall determine whether a person is operating a health facility or health service in violation of any terms or conditions which are a part of their certificate of need approval and license.

(5) (3) Show cause hearings shall be conducted in accordance with the provisions of Section 15 [46] of this administrative regulation.

(6) (4) Prior to convening a show cause hearing, the cabinet shall give the person suspected or alleged to be in violation not less than twenty (20) days' notice of its intent to conduct a hearing.

(7) (5) The notice shall advise the person of:

(a) The allegations against him;

(b) Any facts determined to exist which support the existence of the allegation; and

(c) The statute or administrative regulation alleged to have been violated.

(8) (6) A hearing officer shall convene the hearing and shall allow the person to establish through testimony or other evidence any grounds in support of its position that no action should be taken by the cabinet.

(9) (7) Within thirty (30) days of the conclusion of the hearing, the hearing officer shall issue a final decision on the matter.

(10) (8) A copy of the final decision shall be mailed to the person or his legal representative with the original hearing decision filed in the administrative record maintained by the cabinet.

(11) (9) If a violation is found to have occurred as a result of a show cause hearing conducted pursuant to subsection (1) of this section, the cabinet shall take action as provided by KRS Chapter 216B.

(12) (10) If the person is found to have violated any of the terms or conditions of any certificate of need approval and license as a result of a show cause hearing conducted pursuant to subsection (2) of this section, the cabinet shall take the following action:

(a) If the person had not previously been found to be in violation of the terms and conditions which were made a part of their certificate of need approval and license, the person shall be given a reasonable period of time, not to exceed sixty (60) days after issuance of the cabinet's decision, in which to demonstrate that they have corrected the violation. At the conclusion of this period the cabinet shall verify

that the facility or service is operating in compliance with the terms or conditions of the certificate of need and license at issue.

(b) If the cabinet is unable to verify that the facility or service has corrected the violation in accordance with paragraph (a) of this subsection, or if a person who had previously been found to be in violation of the terms and conditions which were a part of their certificate of need approval and license is found in a subsequent show cause hearing conducted pursuant to this section to be in violation of the terms and conditions again, the matter shall be referred to the Office of Inspector General for appropriate action.

Section 18. [19:] Administrative Escalations. (1) No person may obligate a capital expenditure in excess of the amount authorized by an existing certificate of need unless the person has received an administrative escalation or an additional certificate of need from the cabinet.

(2) Requests for administrative escalations shall be submitted to the cabinet on the Cost Escalation Form, Form #5 [6].

(3) The cabinet shall authorize administrative escalations for funds which have not been obligated and which do not exceed the following limits provided there is not a substantial change in the project:

(a) Twenty (20) percent of the capital expenditure authorized on the original certificate of need or \$100,000, whichever is greater, if the capital expenditure authorized on the certificate of need is less than \$500,000;

(b) Twenty (20) percent of the capital expenditure if the capital expenditure authorized on the certificate of need is \$500,000 to \$4,999,999;

(c) Ten (10) percent of the amount in excess of \$5,000,000, plus \$1,000,000, for projects where the capital expenditure authorized on the certificate of need is \$5,000,000 to \$24,999,999;

(d) Five (5) percent of the amount in excess of \$25,000,000, plus \$3,000,000, where the capital expenditure authorized on the certificate of need is \$25,000,000 to \$49,999,999; and

(e) Two (2) percent of the amount in excess of \$50,000,000, plus \$4,250,000, where the capital expenditure authorized on the certificate of need is \$50,000,000 or more.

(4) If an administrative escalation is authorized, the certificate of need holder shall submit any additional certificate of need application fee required by the increased capital expenditure.

(5) The escalation of a capital expenditure in excess of the limits set forth in subsection (3) of this section, shall constitute a substantial change in a project and shall require a certificate of need pursuant to KRS 216B.061(1)(e).

(6) The unauthorized obligation of a capital expenditure in excess of the amount authorized on a certificate of need shall be presumed to be a willful violation of KRS Chapter 216B and shall be subject to the penalties set forth at KRS 216B.990(2).

Section 19. [20:] Timetables and Standards for Implementation.

(1) As a condition for the issuance of a certificate of need, a holder of a certificate of need shall submit progress reports on the Certificate of Need Six (6) Month Progress Report, Form #7, at the six (6) month intervals specified in this section.

(2) A notice specifying the date each progress report is due shall be sent to every holder of a certificate of need whose project is not fully implemented.

(3) The cabinet or its designee shall review a progress report and shall:

(a) Determine whether the required elements have been completed; and

(b) If the required elements have not been completed, whether sufficient reasons for failure to complete have been provided.

(4) A certificate of need shall be deemed complete when:

(a) The project has been approved for licensure or occupancy by the Division of Licensing and Regulation;

(b) A final cost breakdown has been submitted; and

(c) Documentation that services are being provided to all of the licensed service area has been submitted.

(5) Until a project is deemed complete by the cabinet, the cabinet may require:

(a) The submission of additional reports as specified in subsections (16) through (18) of this section; or

(b) Progress reports in addition to those required at six (6) month intervals under the provisions of this section.

(6) Except for long-term care bed proposals, a certificate of need shall not be revoked for failure to complete the items required during a six (6) month period, if the holder of the certificate of need establishes that the failure was due to emergency circumstances or other causes that could not reasonably be anticipated and avoided by the holder, or were not the result of action or inaction of the holder.

(7) If the cabinet determines that required elements have not been completed for reasons other than those set forth in subsection (5)(a) of this section, it shall notify the holder of the certificate of need, in writing, that it has determined to revoke the certificate of need.

(8) The revocation shall become final thirty (30) days from the date of notice of revocation, unless the holder requests a hearing pursuant to KRS 216B.086.

(9) The first progress report for all projects other than long-term care beds shall include:

(a) Projects for the addition of new services or expansion of existing services that do not involve construction, renovation or the installation of equipment; [shall provide] plans for implementation of the project;

(b) Projects for the purchase of equipment only: a copy of the purchase order;

(c) Projects involving the acquisition of real property: evidence of an option to acquire the site; and

(d) Construction or renovation projects: evidence that schematic plans have been submitted to the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation.

(10) For projects other than long-term care beds not deemed complete, a second progress report shall include:

(a) Projects converting beds: documentation that all beds are licensed;

(b) Projects for addition of new services or expansion of existing services that do not involve construction, renovation, or the installation of equipment: documentation of approval for licensure and occupancy by the Division of Licensing and Regulation or the Emergency Medical Services Branch; and

(c) Construction or renovation projects: the schedule for project completion, evidence of preliminary negotiation with a financial agency, and evidence of preliminary negotiation with contractors.

(11) For projects other than long-term care beds not deemed complete, a third progress report shall include:

(a) Construction or renovation projects:

1. Copy of deed or lease of land;

2. Documentation of final enforceable financing agreement, where applicable;

3. Documentation that final plans have been submitted to the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation; and

4. Enforceable contract with a construction contractor.

(b) Projects for purchase of equipment only: evidence of approval for licensure and occupancy by the Division of Licensing and Regulation.

(12) For projects other than long-term care beds not deemed complete, a fourth progress report shall include documentation of final plan approval by the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation and evidence that construction has begun.

(13) For projects other than long-term care beds not deemed complete, a fifth progress report shall include documentation that construction or renovation is progressing according to schedule.

(14) For projects other than long-term care beds not deemed complete, a sixth progress report shall include documentation that the project has been approved for licensure or occupancy by the Division of Licensing and Regulation and, if required, that the appropriate license has been approved for the health care service or facility.

(15) For projects other than long-term care beds not deemed complete after the sixth progress report, the certificate holder shall, upon request, provide the cabinet or its designee with a written statement showing cause why the certificate should not be revoked. The cabinet may defer revocation action upon a showing by the certificate

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holder that the project shall [will] be completed on a revised schedule. The cabinet or its designee may require additional progress reports.

(16) For projects involving long-term care beds:

(a) The first progress report shall include:

1. A copy of the deed or lease of land for projects requiring acquisition of real property; and

2. Evidence that final plans have been submitted to the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation.

(b) For projects involving long-term care beds not deemed complete, a second progress report shall include:

1. For conversion of bed projects, documentation that the beds in the project are licensed; and

2. For construction projects:

a. Schedule for project completion with projected dates;

b. Documentation of final financing;

c. Documentation of final plan approval by the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation; and

d. Enforceable construction contract.

(17) For projects involving long-term care beds not deemed complete, a third progress report shall include documentation that construction or renovation is progressing according to the schedule for project completion.

(18) For projects involving long-term care beds not deemed complete, a fourth progress report shall include documentation that the project has been appropriately licensed and approved for occupancy by the Division of Licensing and Regulation.

(19) The cabinet or its designee may grant no more than three (3) additional extensions of six (6) months for good cause shown when the certificate holder of long-term care beds has failed to comply with the above relevant progress report requirements.

(20) Within six (6) months following licensure of a project for which a certificate of need has been issued, the certificate holder shall submit documentation that services are being provided to all of the licensed service area. Failure to provide such documentation shall constitute grounds for revocation of the certificate of need and the license for those areas where service is not being provided.

(21) [(22)] If the project involves a capital expenditure, a final cost breakdown shall be included in the final progress report.

(22) [(23)] If the Office of Inspector General discovers a violation of terms and conditions listed on a certificate of need and license while it is conducting its annual licensure inspection it shall refer this violation for a show cause hearing in accordance with Section 17 [18] of this administrative regulation.

Section 20. [21:] Biennial Review. (1) Certificate of need holders may be subject to biennial review to determine whether they are in compliance with the terms as listed on their certificate of need.

(2) Biennial review may be conducted within sixty (60) days of the second anniversary of the final progress report and at twenty-four (24) month intervals thereafter.

(3) The cabinet or its designee shall provide sixty (60) days' advance written notification to the subject of any biennial review, including the following:

(a) When the biennial review shall [will] be initiated;

(b) Request for information necessary for the review to which the cabinet does not have ready access; and

(c) A deadline for response to the request for information.

(4) If the cabinet finds that any of the terms and conditions of a certificate of need approval and license have been violated, the review of and any sanctions for this violation shall be conducted in accordance with Section 17 [18](2) of this administrative regulation.

Section 21. [22:] Advisory Opinions. (1) The cabinet shall issue advisory opinions regarding matters related to certificate of need on its own initiative or upon request from any person.

(2) Requests for advisory opinions shall be filed with the cabinet and shall be accompanied by the Request for Advisory Opinion Form, Form [Number] #6 [8].

(3) In rendering an advisory opinion, a proposal shall be considered to constitute an improvement within the definition of a nonclinically related expenditure exempt from review if the proposed expenditure

meets the definition of an improvement contained in Section 1 of this administrative regulation.

(4) The cabinet may require verification of information and request additional documentation at its discretion prior to issuing an advisory opinion.

(5) The cabinet shall issue a written advisory opinion within thirty (30) days of receipt of a completed request for an advisory opinion or of receipt of additional information.

(6) Public notice of the advisory opinion shall be published in the monthly certificate of need newsletter.

(7) An affected person may request a public hearing regarding an advisory opinion in writing within thirty (30) days of the public notice of the advisory opinion.

(8) The public hearing shall be held within forty-five (45) days of the date of the filing of the request and shall be conducted in accordance with the provisions of Section 15 [16] of this administrative regulation.

(9) The cabinet shall enter a final decision regarding the advisory opinion, within forty-five (45) days of the completion of the public hearing.

(10) If a public hearing is not requested, the advisory opinion shall be the final action of the cabinet.

Section 22. [23:] Notification of the Addition of a Health Service.

(1) Health facilities that make additions to an existing health service for which there are review criteria in the state health plan but for which a certificate of need is not required, or add equipment for which there are review criteria in the state health plan but for which a certificate of need is not required, shall notify the cabinet that such a service or equipment has been added within ten (10) days of such addition.

(2) Notification of the Addition of a Health Service or Equipment (Form #9 [10]) shall be used in making such notification.

Section 23. [24:] Acquisition and Relocation of Nonconforming Nursing Facility. (1) Any person proposing to acquire a nursing facility in excess of 300 beds that is not in substantial compliance with 902 KAR 20:310 shall provide a notification of intent to acquire pursuant to KRS 216B.065.

(2) The nursing facility acquired pursuant to subsection (1) of this section may be relocated to more than one (1) location, provided that all the beds remain within the county of location of the original facility.

(3) Applications to relocate the nursing facility acquired pursuant to subsection (1) of this section, shall be filed pursuant to KRS 216B.095.

(4) Once relocated and licensed, any person proposing to acquire the relocated nursing facilities shall provide notifications of intent to acquire pursuant to KRS 216B.065.

Section 24. [25:] Material Incorporated by Reference. (1) The following forms necessary for the administration of the certificate of need program are hereby incorporated by reference:

(a) [Letter of Intent (Form #1);

(b)] Certificate of Need Application - Formal and Nonsubstantive Review (Form #1A) (6/15/99 [2A]);

(c)] Certificate of Need Application for Ground Ambulance and Air Ambulance Service Providers (Form #1B) (6/15/99 [2B]);

(d)] Certificate of Need Application for Change of Location, Replacement, or Cost Escalation (Form #1C) (6/15/99 [2C]);

(e)] Notice of Appearance (Form #2) (6/15/99);

(f)] Witness List (Form #3) (9/10/97);

(g)] Exhibit List (Form #4) (9/10/97);

(h)] Notice of Appearance (Form #5);

(i)] Administrative Escalation (Form #5) (6/15/99) [6];

(j)] Advisory Opinion Request (Form #6) (6/15/99);

(k)] Six (6) Month Progress Report (Form #7) (7/15/97);

(l)] Advisory Opinion Request (Form #8);

(m)] Acquisition of a Health Facility, Notice of Intent (Form #8) (6/15/99 [9]);

(n)] [(H)] Notification of the Addition of a Health Service or Equipment (Form #9) (6/15/99) [10]).

(2) This material [These forms] may be inspected and copied at the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, between the hours of 8 a.m. and 4:30 p.m., Monday

through Friday.

Section 25. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

JOHN H. GRAY, Executive Director
JOHN H. MORSE, Secretary
JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 23, 1999 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 August 16, 1999, 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: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4WC, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John Gray, Executive Director

(1) Type and number of entities affected: All applicants for and holders of certificates of need.

(2) Direct and indirect cost or savings to those affected:

(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: No public comments were received on this issue.

(b) Cost of doing business in the geographical areas in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments were received on this issue.

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

1. First year following implementation: There are no additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect cost or savings:

1. First Year: None

2. Continuing cost or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Person applying for certificates of need must complete and file applications. Persons receiving certificates of need must complete and file progress reports.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds have already been budgeted for the operation of the certificate of need process. The agency also collects fees for the filing of applications.

(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 on this issue.

(b) Kentucky: No public comments were received on this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives are available because the certificate of need process is mandated by statute (KRS Chapter 216B).

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will enable the Cabinet for Health Services to check the proliferation of surgical services in the state, which members of the Legislative Health and Welfare Committee have identified as an issue needing emergency attention.

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

(c) If detrimental effect would result, explain detrimental effect: Members of the Legislative Health and Welfare Committee have determined that the unchecked proliferation of surgical services will have a detrimental effect on public health by threatening the viability of rural hospitals.

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied as the Certificate of Need Process is applied uniformly for all persons subject to the requirements of certificate of need.

CABINET FOR HEALTH SERVICES Department for Health Services (Amendment)

902 KAR 17:041. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010 to 216B.130

STATUTORY AUTHORITY: KRS 194A.030, 216B.010; 216B.015, EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources, establishes and creates the Cabinet for Health Services, changes the name of the Department for Health Services to Department for Public Health and its programs under the Cabinet for Health Services.] KRS 216B.015 requires the Cabinet for Health Services to oversee development and annual updating of the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS 216B.

Section 1. Incorporation by Reference. (1) The 1998-2000 Kentucky State Health Plan, as amended July 15, 1999 [January 15, 1998], is hereby incorporated by reference.

Section 2. Updating of Inventories and Need Analysis. (1) The cabinet shall update the inventory of licensed and/or certificate of need approved health services and health facilities as well as the need analysis contained in the State Health Plan on a periodic basis to reflect any changes in inventory or need projections for health services and health facilities, and the most current update shall be used in making certificate of need decisions.

(2) Notice of such updates shall be published in the cabinet's certificate of need newsletter.

(3) Such updates may be inspected, copied, or obtained at the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m. Monday through Friday.

RICE C. LEACH, M.D., Commissioner
JOHN H. MORSE, Secretary
JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at noon

PUBLIC HEARING: A public hearing on this regulation will be held August 23, 1999, at 9 a.m., in the Cabinet for Health Services Auditorium, 1st floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by August 16, 1999. If no notice of intent to attend the hearing is received by that date the hearing may be

cancelled. The hearing is open to the public. Any person who attends will be given the 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 notice of intent to attend the public hearing or written comments to: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7905 - phone; (502) 564-7573 - fax.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Charles Kendall

(1) Type and number of entities affected: KRS 216B.015(18) requires the Cabinet for Health Services to oversee the development and annual updating of the State Health Plan, a critical element of the Certificate of Need process.

(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 comment 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 comment 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: 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: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: None

(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: None

(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 governmental 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? No. Tiering was not applied due to the number of facilities and providers contained in the incorporated document.

CABINET FOR HEALTH SERVICES Office of Inspector General (Amendment)

902 KAR 20:275. Mobile health services.

RELATES TO: KRS 216B.010, 216B.015, 216B.040, 216B.042, 216B.045 to 216B.055, 216B.075, 216B.105 to [through] 216B.131,

216B.990, 311.560(4), 314.011(8)

STATUTORY AUTHORITY: KRS 216B.010, 216B.040, 216B.042[-314.011(8); EO 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 require that the Kentucky Cabinet for Health Services regulate health facilities and health services. This administrative regulation provides licensure requirements for the operation of and services provided by mobile health services. [The administrative regulation establishing standards for mobile health services, 902 KAR 20:270, was found deficient by the Interim Joint Committee on Health and Welfare at its November 15, 1995, meeting. The finding of deficiency resulted from the lack of guidelines to coordinate the relationship between home IV therapy service and home health agencies. Legislation to establish such guidelines was not enacted during the 1996 Regular Session of the General Assembly. Therefore, pursuant to KRS 13A.333(1), 902 KAR 20:270 expired. KRS 216B.042 requires the cabinet to establish standards for health facilities and services, and authorizes it to promulgate administrative regulations. Without an administrative regulation establishing standards for mobile health services, the cabinet would be in violation of the legislative mandate expressed in KRS 216B.042. KRS 13A.333(6) prohibits an administrative body from promulgating an administrative regulation that is identical to or substantially the same as an administrative regulation that has expired. This administrative regulation is not identical to or substantially the same as 902 KAR 20:270, because:

(1) Only the lack of guidelines to coordinate the relationship between home IV therapy services and home health services was found deficient;

(2) This administrative regulation includes guidelines to coordinate the relationship between home IV therapy service and home health agencies; and

(3) It is required by the legislative mandate of KRS 216B.042: Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.]

Section 1. Definitions. (1) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources or radiation.

(2) "Computed tomography (CT) scanning" means a radiological diagnostic imaging procedure that shows cross sectional images of internal body structures.

(3) "Diagnostic imaging service" means the production of an image, either through film or computer generated video, of the internal structure of a person.

(4) "Diagnostic service" means a service performed to ascertain and assess a person's physical health condition.

(5) "Governing authority" or "licensee" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(6) [(4)] "IV therapy" means the administration, by a registered nurse under the supervision of a licensed physician, of various pharmaceutical and nutritional products by intravenous, subcutaneous or epidural routes.

(7) [(5)] "IV therapy service" means pharmaceutical and nursing services, including direct hands-on care, limited to and necessary for the:

(a) Preparation, dispensing and delivery of pharmaceutical and nutritional products and equipment; and

(b) Related clinical consultation, training, and assessment or care incidental to initial start-up of IV therapy.

(8) [(6)] "License" means an authorization issued by the cabinet for the purpose of operating mobile health services.

(9) [(7)] "Lithotripter" means a noninvasive treatment technique that utilizes shock waves to shatter kidney stones.

(10) [(8)] "Magnetic resonance imaging (MRI)" means a diagnostic imaging modality which utilizes magnetic resonance, an interaction between atoms and electromagnetic fields, to project images of internal body structures.

(11) [(9)] "Other diagnostic and treatment services" means those health services which are determined to require licensure pursuant to KRS 216B.042 as a mobile health service.

(12) "Private duty nursing agency" means a person, firm, corporation, partnership or association engaged for hire in the business of

providing nursing care to a patient in his home. It shall not include a registered nurse providing nursing services as an independent practitioner.

(13) ~~[(10)]~~ "Qualified anesthesiologist" means a ~~[person who is a]~~ doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery and ~~[who is]~~ board certified or in the process of being certified by the American Board of Anesthesiology or the American Osteopathic Board of Surgery and ~~[who otherwise]~~ meets the criteria established by the mobile health service's governing authority.

(14) ~~[(11)]~~ "Qualified urologist" means a ~~[person who is a]~~ doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery and ~~[who is]~~ board certified or ~~[is]~~ in the process of being certified by the American Board of Urology or the American Osteopathic Board of Surgery and ~~[who otherwise]~~ meets criteria established by the mobile health service's governing authority.

(15) ~~[(12)]~~ "Registered nurse" means a nurse who is licensed to engage in registered nursing practice pursuant to KRS 314.041.

(16) "Treatment service" means a service provided to a person who, because of a physical health condition, is in need of medical assistance for the attainment of his maximum level of physical function.

Section 2. Scope of Operation and Services. Mobile health services provide medical services in various locations and in some instances utilize a specially equipped vehicle such as a van, trailer or mobile home. These services include mobile diagnostic imaging and examination services, mobile treatment services, private duty nursing agency services, and any other medical or dental services provided through the use of a mobile vehicle or performed at various locations.

Section 3. Administration. (1) Licensee.

(a) The licensee shall be legally responsible for the service and for compliance with federal, state and local laws and regulations pertaining to the operation of the service, limited to the scope of the service's certificate of need.

(b) The licensee shall establish lines of authority and designate an administrator who ~~shall~~ will be principally responsible for the daily operation of the service. In the case of a service whose governing authority is comprised of more than one (1) licensed hospital, a separate administrator may be designated from each hospital to serve as the administrator of the service when it is being provided at the hospital where the designee is employed.

(2) Policies. There shall be written administrative policies which the service follows covering all aspects of operation, including:

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

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

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

(d) A written program narrative describing in detail the service ~~[service(s)]~~ offered, methods and protocols for service delivery, qualifications of personnel involved in the delivery of the service ~~[services]~~, and goals of the service ~~[service(s)]~~;

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

(f) Procedures to be followed in the storage, handling and administration of drugs and biologicals.

(3) Personnel.

(a) Medical director. The service shall have a medical director. The medical director shall be a licensed physician or, in the case of a mobile dental clinic a dentist, with specialized training and experience in, and responsibility for, all medical aspects of the service. In the case of a service whose governing authority is comprised of more than one (1) licensed hospital, a separate medical director may be designated from each hospital's medical staff to serve as the medical director of the service when it is being provided at the hospital where the physician is on staff. If a service operates only diagnostic examination equipment, and if the service is offered only to licensed hospitals, and if the employees of the service makes no medical assessment of the diagnostic patient data collected, then the service shall be exempt from the requirements of this paragraph.

(b) The service shall employ, or provide for through a written con-

tractual agreement, sufficient number of qualified personnel to provide effective patient care and all other related services. The licensee shall provide written personnel policies which shall be available to all employees, reviewed on an annual basis, and revised as necessary. If the staff-to-patient ratio does not meet the needs of the patients, the Division of Licensing and Regulation shall determine and inform the program administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

(c) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(d) There shall be an employee health program for mutual protection of employees and patients including provisions for preemployment and periodic health examination, tuberculin test, and other appropriate tests.

(e) Current personnel records shall be maintained for each employee which include the following:

1. Name, address and Social Security number;

2. Evidence of current registration, certification or licensure ~~[of personnel]~~;

3. Records of training and experience; ~~[and]~~

4. Records of performance evaluation; ~~[and]~~

5. Current negative tuberculin skin test or chest x-ray for an employee having direct contact with a patient.

(4) In-service training. An employee ~~[All personnel]~~ shall participate in ongoing in-service training programs relating to his ~~[their respective]~~ job activities including thorough job orientation for a new employee ~~[employees]~~.

(5) Medical records.

(a) The service shall maintain medical records which contain at least the following:

1. Medical and social history relevant to the service ~~[service(s)]~~ provided, including data obtainable from other providers;

2. Name ~~[Names]~~ of referring physician, if any, and physician's orders for special diagnostic services such as x-ray or CT scans;

3. Description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment diagnosis, services provided, medications and treatments prescribed, and disposition made;

4. Reports of ~~[all]~~ physical examinations, laboratory, x-ray, and other test findings relevant to the service ~~[service(s)]~~ provided; and

5. Documentation of ~~[all]~~ referrals made, including reason for referral, to whom the patient was referred, and any information obtained from referral source.

(b) Confidentiality of ~~[all]~~ patient records shall be maintained at all times.

(c) Transfer of records. The service shall establish systematic procedures to assist in continuity of care if ~~[where]~~ the patient moves to another source of care, and the service shall, upon proper release, transfer medical records or an abstract thereof when requested.

(d) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is longer. Mammography and other radiology records shall be retained in accordance with federal requirements.

(e) A specific location shall be designated by the mobile health service for the maintenance and storage of the service's medical records.

(f) Provisions for storage of medical records in the event the mobile health service ceases to operate because of disaster, or for any other reason. The licensee shall safeguard the record and its content against loss, defacement and tampering.

Section 4. Vehicle Requirements. (1) A vehicle ~~[All vehicles]~~ used in the provision of a health service, as provided by the service's certificate of need, shall be kept ~~[:]~~ in optimum order with clean interiors and equipment.

(2) The following standards shall apply only to a vehicle ~~[those vehicles]~~ which the patient enters.

(a) There shall be adequate heating and air-conditioning capability in both the driver and patient compartments.

(b) There shall be a minimum of two (2) potential power sources

for the vehicle. To insure an immediately available source of power in the event of a power failure, one (1) ~~shall~~ must be self-contained on the vehicle. The other source ~~shall~~ must be an exterior source of power hookup.

(c) The vehicle shall be accessible to a user ~~[users]~~ with a disability ~~[disabilities]~~ either through the use of a wheelchair lift or a ramp which complies with applicable American National Standards Institute (ANSI) requirements.

(d) The vehicle shall have adequate and safe space for staff and examination procedures, as determined by the cabinet.

(e) Equipment. A vehicle ~~[Vehicles]~~ used in the provision of a health service, as provided by the service's certificate of need, shall have the following essential equipment:

1. One (1) five (5) pound dry chemical fire extinguisher;
2. One (1) first aid kit;
3. Suction apparatus;
4. Pocket face mask for cardiopulmonary resuscitation; and
5. Oxygen equipment (portable) including:
 - a. One (1) "D" size oxygen cylinder;
 - b. One (1) pressure gauge and flow rate regulator;
 - c. Adaptor and tubing; ~~[and]~~
 - d. Transparent masks for adults and children. Nasal cannulas may be substituted; ~~and~~

e. Airway device to open or maintain air passageway to lungs.

(f) Personnel. Each mobile health service vehicle shall ~~[at a minimum]~~ be staffed by at least one (1) person, who may also be the driver of the vehicle, who shall have the following qualifications:

1. Red Cross Advanced and Emergency Care Certification, each with supplemental advanced emergency courses ~~[CPR instruction]~~ certified by the American Red Cross or the American Heart Association; ~~[or]~~
2. EMT-first responder certification; ~~[or]~~
3. EMT-A certification; or
4. Licensure as a registered nurse, physician or dentist.

Section 5. Requirements for Provision of Services. A licensed mobile health service shall comply with the requirements listed in Sections 3, 4, and 6 of this administrative regulation, the service's program narrative, and the additional requirements of this section which relate to the particular service ~~[service(s)]~~ offered by the licensee.

(1) ~~Diagnostic services. [Diagnostic services are those services which are performed to ascertain and assess an individual's physical health condition.]~~

(a) A diagnostic service ~~[services]~~, except for mammography ~~[services]~~, shall be performed only on the order of a physician or other practitioner acting within his statutory scope of practice ~~[advanced registered nurse practitioner as authorized in KRS 314.011(8)]~~.

(b) A ~~[The]~~ service shall prepare a record for each patient to include the date of the procedure, name of the patient, description of the procedure ~~[procedures]~~ ordered and performed, the referring physician, the name of the person performing the procedure, the date and the name of the physician to whom the results were sent.

(c) Diagnostic imaging services.

1. ~~[Diagnostic imaging services are those services which produce an image, either through film or computer generated video, of the internal structures of a patient.]~~ These services include:

- a. X-ray;
- b. MRI;
- c. CT scanning;
- d. Ultrasound;
- e. Mammography;
- f. Fluoroscopy; and
- g. Other modalities using directed energy to gain statistical, physiological or biological diagnostic imaging information.

2. Any mobile health service which provides a diagnostic imaging service ~~[services]~~ shall comply with the following:

- a. Equipment used for direct patient care shall be fully approved by the Federal Food and Drug Administration (FDA) for clinical use;
- b. There shall be a written preventive maintenance program which the service follows to ensure that imaging equipment is operative, properly calibrated, and shielded to protect the operator, patient, environment, and the integrity of the images produced. Recalibration of radiation producing and nonradiation producing instrumentation shall

occur at least every six (6) months by biomedical service personnel and radiation producing instrumentation shall be recalibrated annually by a consulting health physicist.

c. A diagnostic imaging service ~~[services]~~ shall be provided under the supervision of a physician who is qualified by advanced training and experience in the use of the specific imaging technique for diagnostic purposes;

d. An imaging service ~~[services]~~ shall have a current license or registration pursuant to applicable Kentucky statutes and any administrative regulations promulgated thereunder;

e. ~~[All]~~ Personnel engaged in the operation of imaging equipment shall be currently licensed or certified in accordance with applicable Kentucky statutes and administrative regulations;

f. There shall be a written training plan for personnel in the safe and proper usage of ~~[the]~~ mobile imaging equipment and system;

g. There shall be a physician's signed order which specifies the reason the procedure is required, the area of the body to be examined, and a statement concerning the condition of the patient which indicates why mobile imaging services are necessary; and

h. There shall be ~~[sufficiently]~~ trained on-duty personnel with necessary ~~[adequate]~~ equipment to provide emergency resuscitation services in the event of a patient emergency.

(d) Other diagnostic services.

1. Other diagnostic services are ~~[those services which are]~~ provided through the use of diagnostic equipment, and physical examination. These services include:

- a. Electrocardiogram services;
- b. Electroencephalogram services;
- c. Holter monitor services;
- d. Disability determination services;
- e. Pulmonary function services;
- f. Aphresis services;
- g. Blood gas analysis services;
- h. Echosonography services; and
- i. Doppler services.

2. Equipment used for direct patient care shall comply with the following:

a. The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative and properly calibrated;

b. ~~[All]~~ Personnel engaged in the operation of diagnostic equipment shall have ~~[adequate]~~ training and be currently licensed or certified in accordance with applicable Kentucky statutes and administrative regulations; and

c. There shall be a written training plan for the ~~[adequate]~~ training of personnel in the safe and proper usage of the equipment.

3. Physical examination services shall be nonabusive and provided in a manner which ensures the greatest amount of safety and security for the patient.

a. Protocols for diagnostic examinations shall be developed by the medical director.

b. Personnel performing physical examinations shall have ~~[adequate]~~ training and be currently licensed or certified in accordance with applicable Kentucky statutes and administrative regulations.

c. Personnel performing physical examinations shall be limited by his ~~[the]~~ relevant scope of practice of Kentucky licensure.

(2) Treatment services. ~~[Treatment services are those services provided to an individual who, because of a physical health condition, is in need of medical assistance for the attainment of their maximum level of physical function.]~~

(a) Mobile health clinic. ~~[A mobile health clinic is a health service providing both diagnostic and treatment services through the use of a mobile vehicle.]~~ A mobile health clinic may provide a wide range of diagnostic and treatment services on an outpatient basis for a variety of physical health conditions through the use of a mobile vehicle.

1. Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes one (1) or more physicians and one (1) or more advanced registered nurse practitioners. At least one (1) member of the group shall not be a member of the mobile health clinic staff. The policies shall include:

- a. A description of ~~[the]~~ services the mobile health clinic provides directly and those provided through agreement;
- b. Guidelines for the medical management of health problems

which include the conditions requiring medical consultation and[or] patient referral, and the maintenance of health records; and

c. Procedures for the annual review and evaluation of the services provided by the clinic [~~at least annually~~].

2. Personnel. A [The] mobile health clinic shall have a staff that includes at least one (1) physician and at least one (1) advanced registered nurse practitioner. A [The] clinic shall employ such other staff or ancillary personnel that are necessary to provide the services essential to the clinic's operation.

a. The physician shall:

(i) Be responsible for all medical aspects of the clinic and shall provide direct medical services in accordance with [~~the Medical Practice Act;~~] KRS Chapter 311. In addition, the physician shall provide medical direction, supervision, and consultation to the staff;

(ii) Participate [in conjunction] with the advanced registered nurse practitioner [~~practitioner(s), participate]~~ in developing, executing, and periodically reviewing the mobile health clinic's written policies and services;

(iii) Periodically review the mobile health clinic's patient records, provide medical orders, and provide medical care services to patients of the mobile health clinic; and

(iv) Be present for weekly consultation [~~weekly;~~] and be immediately available [~~within one (1) hour;~~] through direct telecommunication, for consultation, assistance with medical emergencies, or patient referral.

b. The advanced registered nurse practitioner shall:

(i) Participate in the development, execution and periodic review of the written policies governing the services the mobile health clinic provides;

(ii) Participate with the physician in periodic review of patient health records;

(iii) Provide services in accordance with mobile health clinic policies, established protocols, KRS Chapter 314 [~~the Nurse Practice Act (KRS Chapter 314)~~], and with administrative regulations promulgated thereunder;

(iv) Arrange for, or refer patients to a needed service [~~services~~] not provided at the mobile health clinic; and

(v) Assure that adequate patient health records are maintained and transferred when patients are referred.

3. A [The] mobile health clinic shall have a linkage agreement or arrangement [~~agreements or arrangements~~] with each of the following:

a. Inpatient hospital care;

b. Physician services in a hospital, patient's home, or long-term care facility;

c. Additional and specialized diagnostic and laboratory services that are not available at the mobile health clinic;

d. Home health agency;

e. Emergency medical services;

f. Pharmacy services; and

g. Local health department.

4. A [The] mobile health clinic shall perform [~~carry out;~~] or arrange for an annual evaluation of its total program, shall consider the findings of the evaluation, and take corrective action, if necessary. The evaluation shall include:

a. The utilization of clinic services including [~~at least~~] the number of patients served and the volume of services;

b. A representative sample of [~~both~~] active and closed clinical records; and

c. The mobile health clinic's health care policies.

5. A [The] mobile health clinic shall develop and maintain written protocols, i.e., standing orders, rules of practice, and medical directives, which apply to services provided by the clinic and which explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols shall further direct data analysis, direct explicit medical action depending upon the data collected, and include rationale for each decision made. The protocols shall be signed by the staff physician.

6. [The] Mobile health clinic staff shall furnish those diagnostic and therapeutic services and supplies that are commonly furnished in a physician's office or at the entry point into the health care delivery system. These include medical history, physical examination, assessment of health status, and treatment for a variety of medical conditions.

7. A [The] mobile health clinic shall provide basic laboratory services, in compliance with 42 CFR 493 standards, that are essential to the immediate diagnosis and treatment of the patient, including:

a. Chemical examinations of urine by stick or tablet methods or both (including urine ketones);

b. Microscopic examinations of urine sediment;

c. Hemoglobin or hematocrit;

d. Blood sugar;

e. Gram stain;

f. Examination of stool specimens for occult blood;

g. Pregnancy tests;

h. Primary culturing for transmittal to a hospital laboratory or licensed laboratory; and

i. Test for pinworms.

8. A [The] mobile health clinic shall provide medical emergency procedures as a first response to common life-threatening injuries and acute illness, and have available the drugs and biologicals commonly used in lifesaving procedures, such as analgesics, local anesthetics [~~local~~], antibiotics, anticonvulsants, antidotes and emetics, serums and toxoids.

9. The clinic shall post in a conspicuous area at the entrance, visible from the outside of the clinic, the hours that emergency medical services are [~~will be~~] available in the clinic, the clinic's next scheduled visit, and where emergency medical services not provided by the clinic can be obtained during and after the clinic's regularly [~~regular~~] scheduled visits and hours of operation.

(b) Mobile dental clinic. A mobile dental clinic may provide [~~is a health service providing both~~] diagnostic and dental treatment services at different locations through the use of a mobile vehicle or equipment.

1. Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes at least one (1) licensed dentist. These policies shall include:

a. Guidelines which identify the dental problems which may not be performed in the mobile unit, and provisions for patient referral;

b. Guidelines for the review and evaluation of the services provided by the clinic at least annually; and

c. Guidelines for procedures to be followed in the event a patient has a medical emergency.

2. Personnel. A [The] mobile dental clinic shall have a staff that includes at least one (1) licensed dentist and at least one (1) dental assistant.

a. The dentist shall:

(i) Be responsible for all aspects of patient care in accordance with KRS Chapter 313 and any administrative regulations promulgated thereunder;

(ii) Be present in the clinic at all times that a patient is receiving dental care; and

(iii) Provide direct supervision to all staff involved in the delivery of services.

b. The dental assistant shall:

(i) Provide services in accordance with the mobile dental clinic policies and established protocols, KRS Chapter 313, and any administrative regulations promulgated thereunder; and

(ii) Provide services only under the direct supervision of a licensed dentist.

3. Equipment. The mobile dental clinics shall have the following equipment:

a. X-ray units;

b. Sterilizer;

c. High-speed suction;

d. Dental lights; and

e. Emergency kit with the following drug types:

(i) Antiallergenic;

(ii) Vasodilators;

(iii) Anticonvulsives; and

(iv) Vasopressors.

(c) Mobile lithotripter service. [~~A mobile lithotripter service is a health service which provides for a noninvasive technique for removing kidney or ureteral stones through the use of a lithotripter at various hospital locations;~~]

1. Mobile lithotripter services shall [~~may only~~] be delivered on the grounds of a [the] hospital utilizing the mobile lithotripter service.

2. Lithotripsy services shall be performed [~~only~~] on the order of a

physician.

3. Lithotripsy services shall be provided under the supervision of a physician who is qualified by advanced training and experience in the use of lithotripsy treatment.

4. The service shall prepare a record for each patient to include the date of the procedure, name of the patient, description of the procedures ordered and performed, the referring physician, and the name of the person performing the procedure.

5. There shall be an order signed by a physician or other practitioner acting within his statutory scope of practice [a physician's signed order] which specifies the reason the procedure is required, the area of the body to be exposed, and the anticipated outcome of treatment.

6. Policies. A mobile lithotripter service shall develop patient care policies with the advice of a group of professional personnel that includes at least one (1) qualified urologist and one (1) qualified anesthesiologist. At least one (1) member of the group shall not be a member of the mobile lithotripter service staff. The policies shall include:

a. A description of how a patient will be transported between the hospital and the mobile lithotripter service;

b. Procedures to be followed in the event a patient has a medical emergency;

c. Guidelines for the annual review and evaluation of the service [on an annual basis]; and

d. Policies and protocols governing the utilization and responsibilities of hospital staff in the delivery of lithotripter services.

7. Personnel. A [The] mobile lithotripter service shall employ at least one (1) lithotripter technician, and shall employ or make arrangements with the hospital utilizing the service for at least one (1) registered nurse and [;] one (1) qualified urologist to be present in the unit during the delivery of lithotripsy services, and one (1) qualified anesthesiologist to be available for procedures requiring anesthesia.

8. Lithotripsy equipment used for direct patient care shall comply with the following:

a. Lithotripsy equipment shall be fully approved by the Federal Food and Drug Administration (FDA) for clinical use;

b. The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative, properly calibrated, properly shielded, and safe for the patient, operator, and environment;

c. [All] Personnel engaged in the operation of diagnostic equipment shall have [adequate] training and be currently licensed, certified or registered in accordance with applicable Kentucky statutes and administrative regulations; and

d. There shall be a written training plan for the [adequate] training of personnel in the safe and proper usage of the equipment; and

e. There shall be [sufficiently] trained on-duty personnel with necessary [adequate] equipment to provide emergency resuscitation in the event of a patient emergency.

(d) Private duty nursing agency services.

1. Private duty nursing agency services shall be provided in accordance with a plan of treatment prescribed by a licensed physician or other ordering practitioner acting within his statutory scope of practice and as permitted by KRS Chapter 314.

2. Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes one (1) or more physician(s) and one (1) or more registered nurse(s). At least one (1) member of the group shall not be a member of the service's staff. The policies shall include:

a. A description of the services provided;

b. A requirement to inform the patient of other in-home services which can be provided only by other appropriately licensed agencies;

c. A requirement for a written common plan for treatment and coordination of treatment with other licensed health care providers servicing the patient, and immediate verbal communication between providers of revisions in the common plan shall be documented in the plan of treatment;

d. Guidelines for the medical management of health problems which include the conditions requiring medical consultation or patient referral, and the maintenance of health records;

e. Procedures for the annual review and evaluation of the services provided; and

f. Guidelines for patient and environment assessment.

(e) Other treatment services, including IV therapy services, shall be performed only on the order of a physician or other practitioner acting within his statutory scope of practice.

1. IV therapy shall only be performed by a registered nurse and shall be limited to nursing services which are required for the initial start-up of an IV therapy program.

2. If nursing services are required which exceed the initial start-up of IV therapy, they shall be provided by an appropriately licensed agency to provide care under a physician's plan of care.

3. All services provided shall be under the supervision of a licensed physician.

4. Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes one (1) or more physician(s) and one (1) or more registered nurse(s). At least one (1) member of the group shall not be a member of the service's staff. The policies shall include:

a. A description of the services provided;

b. A requirement to inform the patient [patients] of other in-home services which can be provided only by other appropriately licensed agencies;

c. A requirement for a written common plan for treatment and coordination of treatment with other licensed health care providers servicing the patient, and immediate verbal communication between providers of revisions in the common plan shall be documented in the plan of treatment;

d. Guidelines for the medical management of health problems which include the conditions requiring medical consultation or patient referral, and the maintenance of health records;

e. Procedures for the annual review and evaluation of the services provided [at least annually]; and

f. Guidelines for patient and environment assessment.

5. Personnel. A [The] service shall have a staff that includes at least one (1) registered nurse. A [The] service shall employ such other staff or ancillary personnel that are necessary and essential to the service's operation. The registered nurse shall:

a. Participate in the development, execution and period review of the written policies governing the services provided;

b. Participate with the physician in periodic review of patient health records;

c. Provide services in accordance with established policies, protocols, KRS Chapter 314 [the Nurse-Practice Act (KRS Chapter 314)], and with administrative regulations promulgated thereunder;

(i) Arrange for or refer patients to needed services that cannot be provided by the service; and

(ii) Assure that adequate patient health records are maintained and transferred when patients are referred.

6. In-service training programs shall include instruction in:

a. Use of equipment;

b. Side effects and precautions of drugs and biologicals; and

c. Infection control measures.

7. The service shall perform [carry out] or arrange for an annual evaluation of its total program, shall consider the findings of the evaluation, and take corrective action, if necessary. The evaluation shall include:

a. The utilization of the service including [at least] the number of patients served and the volume of services;

b. A representative sample of [both] active and closed records; and

c. The service's health care policies.

Section 6. Waste Processing. (1) Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid disposable containers immediately after use. Needles and syringes shall not be cut, dismantled, or destroyed after use, but shall be placed intact into a rigid container. The rigid containers of sharp wastes shall either be incinerated or disposed of in a sanitary landfill [approved pursuant to 401 KAR 47:020].

(2) The mobile health service shall establish a written policy for the handling and disposal of all pathological and microbiologic laboratory waste. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 or 401 KAR 61:010.

(a) Pathological and microbiologic laboratory waste shall be

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placed in double impervious plastic bags and each bag shall be two (2) mils in thickness. A bag, when full, shall not exceed twenty-five (25) pounds. All bags shall be securely closed and a tag, which reads "INFECTIOUS WASTE" and identifies the mobile health service from which the waste is being removed, shall be attached to the bag in a conspicuous manner. These wastes shall be sterilized before disposal or be disposed of by incineration if they are combustible.

(b) All unpreserved tissue specimens shall be incinerated off site.

(3) The following liquids shall be disposed of by incineration or by sanitary sewer:

- (a) Blood;
- (b) Vaginal or cervical secretions or exudates;
- (c) Semen;
- (d) Cerebrospinal, synovial, pleural, pericardial, peritoneal, respiratory or amniotic fluids;
- (e) Saliva in dental procedures;
- (f) Fluids visibly contaminated with blood; and
- (g) Mixed fluids where any of the above may be involved.

TIMOTHY L. VENO, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: July 8, 1999

FILED WITH LRC: July 9, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 23, 1999, at 9 a.m., at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by August 16, 1999, 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, in which case the person requesting the transcript shall be responsible for payment. 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: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, Telephone: (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ralph Von Derau

(1) Type and number of entities affected: There are presently 113 licensed mobile health services.

(2) Direct and indirect costs or savings to those affected:

(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: No public comments addressing this issue 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 public comments addressing this issue 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: No additional reporting requirements imposed.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No direct or indirect costs should be associated with this program beyond printing this new regulation.

1. First year: \$500 for printing regulation.

2. Continuing costs or savings: No additional costs or savings, since reprinting of regulations is provided for in the continuing budget.

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: No additional paperwork.

(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: General 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 public comments addressing this issue were received.

(b) Kentucky: No public comments addressing this issue were received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 216B mandates that minimum standards be established for licensure.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: These are minimum health care standards intended to protect the public.

(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 governmental 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:

(11) TIERING: Is tiering applied? No. This is a licensure program and, as such, applies to all licensed services.

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, JULY 15, 1999

GENERAL GOVERNMENT CABINET
Kentucky State Treasurer
(New Administrative Regulation)

20 KAR 1:080. Reports to be filed by holders of unclaimed property.

RELATES TO: KRS 393.110

STATUTORY AUTHORITY: KRS 393.110, 393.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 393.110 mandates that the holder of unclaimed property annually makes certain reports to the State Treasurer concerning such property. This administrative regulation governs those reports, directing what must be included in the report and the filing of the report.

Section 1. Reports Filed by All Holders of Unclaimed Property. All holders of any unclaimed property shall annually file with the Kentucky State Treasurer a report on such property. This report shall be made on Form 400, and shall be filed in the main office of the State Treasurer no later than the close of business on November 1 of each year.

Section 2. Reports on Property Held in an Interest Bearing Account. When the holder of unclaimed property is required to place that property in an interest bearing account, the holder shall submit to the State Treasurer the following reports:

(1) Statements on the interest-bearing account holding unclaimed property. Such statements shall be the kind normally issued on interest-bearing accounts and shall be filed with the office of State Treasurer according to the holder's normal course of business but no less than quarterly. The statements shall include the value of the unclaimed property and the amount of interest paid on the account. The statements shall be filed at the main office of the State Treasurer.

(2) Reports on any amount paid out of an account holding unclaimed property. A report shall be filed within ten (10) business days by any holder paying any amount out of such account. The report shall include the name, Social Security number and the address of the property owner, the amount paid, the portion of the amount that represents interest paid and the portion that represents the original amount of unclaimed property, the date that the property was presumed abandoned, if not paid to the owner to whom the amount was paid, proof of payment, an itemization of any fees or expenses charged against the account and an affidavit indicating:

(a) What specific proof was used in determining that the person that received the amount/payment was the rightful claimant; and

(b) That the procedures for paying a claim for unclaimed property as outlined in 20 KAR 1:040 were followed. This report shall be filed at the main office of the State Treasurer.

Section 3. Remittance of Unclaimed Property. (1) All holders of unclaimed property that is not held in an interest-bearing demand, savings, or time deposit, shall annually turn over to the State Treasurer such property in the year it is presumed abandoned. The property shall be turned over to the State Treasurer by the close of business on the first day of November at the main office of the State Treasurer. If it is not feasible to turn such property over to the State Treasurer at the main office, the holder of such property shall contact the State Treasurer prior to November 1 and make other arrangements for the remittance of the property.

(2) Holders of unclaimed property held in an interest-bearing demand, savings, or time deposit, shall annually turn over such property with accrued interest to the State Treasurer in the year in which ten (10) years have passed from the date the property was presumed abandoned, or in the year the property was established as actually abandoned, whichever ever occurs first. The property shall be turned over to the State Treasurer by the close of business on the first day of November at the main office of the State Treasurer.

Section 4. Incorporation by Reference. (1) Form 400, "1998 Unclaimed Property Report/Remit Form" (Nonfinancial Institutions) 1998;

(2) This form may be inspected, copied or obtained at the Kentucky State Treasurer, Capitol Annex, Room 183, Frankfort, Kentucky 40601, Monday through Friday from 8 a.m. through 4 p.m. est.

JOHN KENNEDY HAMILTON, Kentucky State Treasurer
ROBERT S. JONES, Assistant Attorney General

APPROVED BY AGENCY: July 12, 1999

FILED WITH LRC: July 12, 1999 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 30, 1999 at 10 a.m., prevailing local time at the offices of the Treasury, Suite 183, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by August 23, 1999, five workdays prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made with the notification of intent to attend. 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: Robert S. Jones, Capitol Building, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601, Phone: (502) 696-5300, FAX (502) 564-2894.

REGULATORY IMPACT ANALYSIS

Contact person: Robert S. Jones

(1) Type and number of entities affected: All holders of unclaimed property will be affected by this regulation.

(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: No public comments received; potential fiscal impact will be minimal.

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

1. First year following implementation: There will be costs of holders of affected unclaimed property in reporting. Similar reports are already required, therefore there should not be significant additional costs. In addition, holders of unclaimed property that was held in an interest-bearing demand, savings or time deposit shall also have to file a report on the account holding such property. This regulation was drafted in such a way as to allow the holder to use a report that they would use in the normal course of business.

2. Second and subsequent years: See above.

(3) Effects on the promulgating administrative body:

1. First year: Some operational costs of the department will be increased handling these reports and in tracking these required accounts. There will be some costs associated with the implementation of this bill and the education of the public and the affected holders. Other than implementation costs as discussed, these costs will continue throughout the life of the regulation.

(a) Direct and indirect costs or savings:

1. First year: See above.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: See above.

(b) Reporting and paperwork requirements: See above.

(4) Assessment of anticipated effect on state and local revenues: Unable to anticipate effect on state revenues.

(5) Source of revenue to be used for implementation and en-

forcement of administrative regulation: Department funds.

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

(a) Geographical area in which administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: Potential slight increased costs for holder of unclaimed property, no cost associated with the general public.

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of the public's interest in their unclaimed property.

(8) Assessment of expected benefits: Expected benefits would be to return more unclaimed property to its rightful owner in a way that is more efficient.

(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:

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement SB 339.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: See above.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The regulation applies to all holders of lost and abandoned property.

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, unless the local government is a holder of affected unclaimed property.

2. State, what unit, part or division of local government this administrative regulation will affect. None, unless any unit, part or division of local government is considered the holder of affected unclaimed property.

3. State the aspect or service of a local government to which this administrative regulation relates. None

4. Estimate the effect this administrative regulation will have 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: None

Expenditures: None

DEPARTMENT OF STATE Kentucky Registry of Election Finance (New Administrative Regulation)

32 KAR 1:180. Twenty-four (24) hour gubernatorial slate reporting.

RELATES TO: KRS 121A.020(5), 121A.030(5), 121A.080

STATUTORY AUTHORITY: KRS 121A.020(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121A.020(7) requires the registry to promulgate administrative regulations and official forms necessary to implement KRS Chapter 121A. KRS 121A.020(5) provides reporting requirements for all slates of candidates, including slates rejecting expenditure limits ("nonparticipating slates") and slates accepting expenditure limits ("participating slates"). The public interest requires effective and timely disclosure of all campaign contributions and expenditures. Slates are prohibited from accepting contributions during the twenty-eight (28) days preceding a primary or regular election and during the fourteen (14) days immediately preceding a runoff primary, except for nonparticipating slates of candidates who choose to expend

their own personal funds during the foregoing statutory periods. See *Gable v. Patton*, 142 F.3d 940 (6th Cir. 1998), *cert. denied*, ___ U.S. ___, 119 S.Ct. 1112, 143 L.Ed.2d 108 (1999). Further, under KRS 121A.080, participating slates of candidates may resume fundraising upon a ruling by the registry or voluntary notice that a slate of candidates has received contributions or made expenditures in excess of the campaign expenditure limits established by KRS 121A.030. Therefore, in order to effectively administer the public financing program, it is necessary to promulgate this administrative regulation to require all slates of candidates, both participating and nonparticipating, to report to the registry within twenty-four (24) hours the receipt of or authorization to receive any contribution or deposit to the campaign depository from the personal funds of the members of the slate and the expenditure of or commitment to expend funds outside of the campaign depository to purchase media during the twenty-eight (28) days immediately preceding a primary or regular election and during the fourteen (14) days immediately preceding a runoff primary.

Section 1. A slate of candidates or a campaign committee organized to support a slate of candidates that under KRS 121A.040(1) files its intent to accept or reject public fund transfers and accept or reject the expenditure limits of KRS 121A.030(1) shall report to the registry in the manner provided by KRS 121.180(3)(a) and Section 3 of this administrative regulation any of the following transactions within twenty-four (24) hours after the transaction is made, if made during the twenty-eight (28) days immediately preceding a primary or regular election and if made during the fourteen (14) days immediately preceding a runoff primary:

(1) Any contribution within the meaning of KRS 121A.010(11)(a) received from the personal funds of a member of the slate of candidates;

(2) Any deposit of funds to the slate's candidate campaign account that may be attributed to the personal funds of a member of the slate of candidates; and

(3) Any expenditure authorized, incurred, committed to, reserved for or made by an authorized agent of a slate of candidates for the purchase of advertising, including the reservation of time or space for the purchase of advertising, from a newspaper, magazine, owner or lessor of billboards, radio or television station or network, direct mail vendor or other business organization offering communications or advertising services for hire.

Section 2. A twenty-four (24) hour slate report filed pursuant to Section 1 of this administrative regulation shall be supplementary to any other reports required under KRS Chapters 121 and 121A.

Section 3. Reports required under Section 1 of this administrative regulation shall be reported using the election finance statement form promulgated under 32 KAR 1:030, which is distributed to gubernatorial slates of candidates and is available at the office of the Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky, 40601, between the hours of 8 a.m. and 4:30 p.m.

DONALD L. COX, CHAIR

ROSEMARY F. CENTER, General Counsel

APPROVED BY AGENCY: July 7, 1999

FILED WITH LRC: July 7, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on August 23, 1999 at 9:30 a.m. Individuals interested in being heard at this hearing shall notify this agency in writing by August 16, 1999, five (5) 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 this 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 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: Rosemary F. Center, General Counsel,

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140 Walnut Street, Frankfort, Kentucky 40601, (502) 573-2226, FAX (502) 573-5622.

REGULATORY IMPACT ANALYSIS

Contact Person: Rosemary F. Center

(1) Type and number of entities affected: Kentucky Registry of Election Finance; candidates for Governor and Lieutenant Governor; candidate committees for slates of candidates for Governor and Lieutenant Governor.

(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: Moderate increase in reporting requirements for slates of candidates for Governor and Lieutenant Governor and slate candidate committees; no appreciable increase in costs for paperwork or manpower for either slates, committees or the registry.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No appreciable increase in costs; potential decrease in time allocated by auditors to cross-check or monitor last minute contributions and media expenditures, however, small increase in time to review new reports submitted.

2. Continuing costs or savings: No additional appreciable continuing costs or savings.

3. Additional factors increasing or decreasing paperwork: Moderate increase in processing and fulfilling requests to view and copy additional reporting.

(b) Reporting and paperwork requirements: No additional requirements.

(4) Assessment of anticipated effects on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Registry's 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) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons by alternatives were rejected: In light of *Gable v. Patton*, 142 F.3d 940 (6th Cir.), cert. denied, ___ U.S. ___, 119 S.Ct. 1112, 143 L.Ed.2d 108 (1999), there is no constitutionally permissible alternative that would permit the effective administration of the public financing program.

(8) Assessment of expected benefits: Effective administration of the public financing program in light of recent case law.

(a) Identify effects on public health and environmental welfare on 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: N/A

(9) Identify any statute, administrative regulation, or government policy which may be in conflict, overlapping or duplication: No conflict identified. The proposed regulation does not allow contributions during the 28-day window in conflict with KRS 121A.030(5). Rather, pursuant to recent case law, KRS 121A.030(5) is currently unenforceable against nonparticipating slates of candidates who choose to expend personal funds during the 28 days immediately preceding an election.

(a) Necessity of proposed regulation if 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: No additional comments.

(11) TIERING: Is tiering applied? No, tiering is not applied because the provisions of this regulation apply equally to all individuals affected. The administrative regulation provides procedures that shall apply uniformly to gubernatorial slates of candidates, whether they accept or do not accept public financing.

REVENUE CABINET Department of Law Division of Tax Policy (New Administrative Regulation)

103 KAR 30:096. Repeal of 103 KAR 30:095.

RELATES TO: KRS 139.480, 139.490

STATUTORY AUTHORITY: 13A.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13A.120 prohibits an administrative regulation that repeats or summarizes the provisions of a statute. Administrative regulation 103 KAR 30:095 is not required because KRS 139.480(8) specifically exempts insecticides, fungicides, herbicides, rodenticides and other farm chemicals from sales and use tax.

Section 1. 103 KAR 30:095, Farm chemicals, is hereby repealed.

DANA BYNUM MAYTON, Commissioner

SARA JANE SCHAAF, Secretary

APPROVED BY AGENCY: June 21, 1999

FILED WITH LRC: June 23, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 26, 1999, at 11 a.m. at Training Room A, 200 Fair Oaks Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 19, 1999, 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 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: Charlotte T. Quarles, Director, Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40601, Phone: (502) 564-6843, ext. 4442, FAX: (502) 564-9565.

REGULATORY IMPACT ANALYSIS

Contact Person: Charlotte Quarles

(1) Type and number of entities affected: Any person regularly engaged in farming and persons selling farm chemicals to farmers may be affected by this administrative regulation.

(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 in 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 regulation will have no effect on the cost of doing business in 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: This administrative regu-

lation repeals 103 KAR 30:095, Farm chemicals, that is no longer needed. KRS 139.480(8) specifically exempts sales of farm chemicals to farmers. The compliance, reporting and paperwork requirements will not change in the first year following implementation. Costs will be neither increased nor decreased.

2. Second and subsequent years: The compliance, reporting, and paperwork requirements have not changed for the second and subsequent years. Costs will be neither increased nor decreased.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs and savings:

1. First year: Costs will be neither increased nor decreased.

2. Continuing costs or savings: Costs will be neither increased nor decreased.

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 paperwork or reporting requirements.

(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 alternative was rejected: No alternative suggestions 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.

(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 taxpayers that qualify for the farm chemical exemption.

**OFFICE OF THE GOVERNOR
Department for Local Government
(New Administrative Regulation)**

109 KAR 2:020. Training incentive.

RELATES TO: KRS 64.5275(6), (7)

STATUTORY AUTHORITY: 64.5275(6), (7); *Ashland-Boyd County City-County Health Dept. v. Riggs*, 252 S.W.2d 922 (1952); *Louisville and Jefferson County Board of Health v. Steinfeld*, 308 Ky. 824, 215 S.W.2d 1011 (1948)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 64.5275(6) and (7) provides that county judges/executive, clerks, sheriffs, magistrates and commissioners who serve on fiscal courts, and jailers who operate full-service jails shall receive an increase of \$100 for each forty (40) hour training unit that is successfully completed as a training incentive fringe benefit. KRS 64.5275 provides that each forty (40) hour training unit shall be certified by the Department for Local Government and shall be available to those officials based upon continuing service in their respective offices. The function of this administrative regulation and of the training incentive fringe benefit is to develop more knowledgeable, professional and competent county officials through enhanced training opportunities. This administrative regulation is necessary to set forth the criteria for receipt of the training incentive fringe benefit, and approval and

certification of courses that count toward the forty (40) hour training units.

Section 1. Definitions. (1) "Department" means the Department for Local Government.

(2) "Division" means the Division of Training and Area Development District (ADD) Services, Department for Local Government.

(3) "Director" means the Director of the Division of Training and ADD Services, Department for Local Government.

(4) "Eligible official" means a county judge/executive, sheriff, clerk, jailer who operates a full-service jail, county magistrate or commissioner, who is eligible to receive the training incentive fringe benefit pursuant to KRS 64.5275(6) and (7).

(5) "Training incentive" means the training incentive fringe benefit increase of \$100, for a forty (40) hour training unit, adjusted pursuant to KRS 64.5275(1), (2) and (6) from 1948 to present value in accordance with the Consumer Price Index (CPI).

Section 2. Areas of Learning. Courses shall be certified and approved for the training incentive by the director, based on the following primary areas of instruction relating to operation of county government. Those areas of instruction shall include:

(1) County financial reporting, including course instruction in:

- (a) Budget preparation;
- (b) Adoption of tax rates;
- (c) Tax collection policy and enforcement;
- (d) Investment policy; and
- (e) Audits.

(2) Duties and responsibilities of elected county officials, including course instruction in:

- (a) Election law and procedure;
- (b) Conducting meetings of the fiscal court and various local government committees, including:

- 1. Proper keeping of fiscal court minutes;
- 2. Parliamentary procedure; and
- 3. The legal ramifications of the open meetings and open records law;

(c) Ethics in county government, and ethics codes;

(d) Dealing appropriately with juveniles;

(e) Money for roads and the county road plan;

(3) Personnel law and regulation, including course instruction in:

(a) Labor and wage and hour law and regulation;

(b) Payroll procedures; and

(c) Avoiding legal pitfalls in the area of personnel administration, including:

- 1. Harassment and sexual harassment;
- 2. Equal employment opportunity;
- 3. Americans with Disabilities Act;
- 4. Family Medical Leave Act;
- 5. Political terminations;
- 6. Personnel policies and procedures; and
- 7. Other legal issues that may affect county government personnel.

(4) County legislative issues, including course instruction in:

(a) Adopting an effective county administrative code; and

(b) Proper adoption of county ordinances and resolutions.

(5) The director may certify and approve additional courses or areas of learning in addition to those found in subsections (1) through (4) of this section based on the criteria set forth in this section and Section 3 of this administrative regulation.

Section 3. Approval of Courses or Additional Areas of Learning. The director shall approve all courses of instruction prior to an elected official attending that course and receiving hourly credit for that course.

(1) Courses shall be approved and certified on an hourly basis, or portion of an hour.

(2) The director shall approve and certify courses pursuant to KRS 64.5275(6) based on the following criteria:

(a) Relevance of instruction to the statutory duties performed by the official seeking certification and approval;

(b) Relevance of instruction to the areas of learning outlined in Section 1 of this administrative regulation;

- (c) Organization or entity sponsoring the training event;
- (d) Extent of actual training at the event;
- (e) Ability of the entity sponsoring the training to verify that the official attended the training event;

- (f) Qualifications of the instructor(s) at the training event; and
- (g) Any other information relevant to the approval and certification of the training course or event.

(3) The director may refuse to certify and approve any training course or event that fails to meet any of the criteria outlined in Section 2 of this administrative regulation and this section.

(4) Training courses sponsored by the department shall automatically be certified and approved and the director shall assign appropriate hourly credit in accordance with Section 2(1) of this administrative regulation.

(5)(a) Training courses sponsored by other entities or organizations shall be certified and approved for credit toward the training incentive, if the director determines that the courses or training event meet the criteria set forth in Section 2 of this administrative regulation and this section.

(b) If an organization, entity, or individual wishes to have training approved and certified they shall submit to the director a minimum of fourteen (14) calendar days prior to the scheduled training:

1. A description of the proposed training course or event on a Request for Training Credit Form; and

2. An outline of the proposed training course or event, including the names and qualifications of the instructors.

(c) The director shall review the proposal and notify the organization or entity of his decision concerning approval of the training course or event prior to the scheduled training.

(d) The director shall not approve training courses or events submitted after the scheduled training course or event, except upon a showing of extreme hardship by the organization, entity or individual.

Section 4. Annual Training Unit Approval. (1) The director shall approve and certify only one training incentive per eligible official per twelve (12) month period, based upon the eligible official's continuing service in office. The training incentive shall be paid annually on the anniversary date of completion of that training incentive only during the eligible official's term of office in which the training incentive was earned.

(2) The twelve (12) month period shall begin with the payment of the eligible official's first forty (40) hour training unit.

(3)(a) Eligible officials may carry forward into the next twelve (12) month period any hours earned in addition to those necessary to receive the training incentive for the twelve (12) month period just completed.

(b) If an eligible official does not receive sufficient hours in a twelve (12) month period to be eligible to receive the training incentive, the official may carry forward any hours earned to that point, into the next twelve (12) month period.

(4) Eligible officials shall receive no more than four (4) training incentives for a four (4) year term of office.

(5)(a) An eligible official shall not carry any training incentives received into a new term of office.

(b) Upon reelection and assuming office for the new term, the eligible official may receive new training incentives based upon his continuing service in that office.

Section 5. Certification by the Department. (1) The division shall keep track of the hours earned by eligible officials and shall certify the hours earned to eligible officials upon request.

(2) Upon successful completion of the forty (40) hour training unit, the director shall certify to the eligible official, the fiscal court, and the county treasurer that the official shall receive the training incentive.

(3)(a) To receive credit at approved courses or training events, the eligible official shall submit the Request for Training Credit Form to the division for processing.

(b) Failure by an eligible official to submit a Request for Training Credit Form for particular training course or event may result in:

1. The eligible official losing credit toward his training incentive; and

2. An inaccurate transcript for that eligible official.

(4) Training incentives shall be included as a part of the county budget.

Section 6. Evaluations. (1) The division shall provide a Workshop Evaluation Form for each participant at any training course or event approved and certified by the division.

(2) Every organization, state agency or entity hosting a training course or event shall assure that each participant completes and turns in the Workshop Evaluation Form prior to leaving the training.

(3) The department shall use the completed evaluation forms to:

(a) Measure the success of the training program;

(b) Expand the training curriculum; and

(c) Identify additional areas of potential training.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The Course Descriptions, April 1999, edition;

(b) The Department for Local Government Request for Training Credit-Individual, April 1999, edition;

(c) The Workshop Evaluation, April 1999 edition; and

(d) The Department for Local Government Request for Training Credit-Organization, April 1999 edition;

(2) This material may be inspected, copied or obtained at the offices of the Department for Local Government, 1024 Capital Center Drive, Suite 340 Monday through Friday, 8 a.m. to 4:30 p.m.

BOB ARNOLD, Commissioner

THOMAS M. TROTH, Legal Counsel

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 24, 1999, at 9 a.m. at the Department for Local Government, 1024 Capital Center Drive Suite 340, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, 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 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: Richard J. Ornstein, Legal Counsel, Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601, (502) 573-2382, Fax Number (502) 573-2939.

REGULATORY IMPACT ANALYSIS

Contact person: Dan Tuttle

(1) Type and number of entities affected: 120 counties and eligible county officials.

(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 as there have been no 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: None as there have been no public comments 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: Constitutional officers must seek approval for certification of various training events, then must provide proof of attendance. The Department for Local Government must maintain records on each officer in regard to their training history,

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and notify the necessary parties of completion of training units.

2. Second and subsequent years: Records are continual and perpetual.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Major direct and indirect costs associated with necessary travel, materials development, software acquisition and support. These costs are currently being absorbed in the department's operating budget.

2. Continuing costs or savings: Costs will increase as travel and expenses increase.

3. Additional factors increasing or decreasing costs: Any increase in eligible officials will increase cost accordingly.

(b) Reporting and paperwork requirements: Parallel to increase of officials.

(4) Assessment of anticipated effect on state and local revenues: Local government revenues could increase with the further education of officials.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State dollars pay for program administration; local tax dollars pay for incentive benefit.

(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 have been received at this time.

(b) Kentucky: No public comments have been received at this time.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The statute mandates the method being utilized

(8) Assessment of expected benefits: Better educated officials can provide better services.

(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: There will be no detrimental effect.

(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:

(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:

(10) Any additional information or comments:

(11) TIERING: Tiering was not applied to this administrative regulation because it was intended that these administrative regulations apply equally to all eligible local government officials. Failure to apply this administrative regulation equally and fairly might lead to accusations of equal protection and due process violations.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate for this program.

2. State compliance standards. KRS 64.5275

3. Minimum or uniform standards contained in the federal mandate. Not applicable see 1 above.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable, see 1 above.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable, see 1 above.

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. Constitutional officers of county government, including county judges/executive, county clerks, county sheriffs, county jailers who operate full-service jails, and county magistrates and

commissioners who serve on fiscal courts.

3. State the aspect or service of local government to which this administrative regulation relates. Continuing education of constitutional officers.

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 (+/-): Undetermined. It will depend upon the number of officers in each county who receive the 40 hour training unit.

Expenditures (+/-): Approximately \$687 for each eligible official

Other Explanation: Number of officers vary from county to county.

OFFICE OF THE GOVERNOR Department for Local Government (New Administrative Regulation)

109 KAR 15:020. State Local Finance Officer Policy Manual.

RELATES TO: KRS 46.010, 46.020, 65.944, 66.045, 68.020, 68.210, 68.245, 68.250, 68.350, 132.585

STATUTORY AUTHORITY: KRS 46.010, 65.944, 66.045, 68.210

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to implement KRS 46.010, 65.944, 66.045 and 68.210 and mandates uniform minimum requirements relating to budgeting, reporting and recordkeeping for debt, receipts, and disbursements for local governments and local government officials handling public funds.

Section 1. Incorporation by Reference. (1) The "Instructional Guide for County Budget Preparation and State Local Finance Officer Policy Manual, revised 1999" is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the office of the Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

BOB ARNOLD, Commissioner

THOMAS M. TROTH, Legal Counsel

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 24, 1999, at 10:30 a.m. at the Department for Local Government, 1024 Capital Center Drive Suite 340, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, 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 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: Richard J. Ornstein, Legal Counsel, Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601, (502) 573-2382, FAX (502) 573-2939.

REGULATORY IMPACT ANALYSIS

Contact person: Richard J. Ornstein

(1) Type and number of entities affected: Counties, urban county governments, charter counties, cities and special districts

(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: There should be no cost of

living and employment costs associated with these programs

(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: Cannot be determined at this time as there have been no comments 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: The extensive reporting and paperwork necessary to comply with the administrative regulation will not increase or decrease in the first year following implementation as local governments are presently in compliance.

2. Second and subsequent years: There are no additional reporting or paperwork requirements.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be no direct or indirect costs or savings to the promulgating administrative body.

2. Continuing costs or savings: There will be no direct or indirect costs or savings to the promulgating administrative body.

3. Additional factors increasing or decreasing costs: No other additional factors known at this time.

(b) Reporting and paperwork requirements:

(4) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: DLG employees are utilized and paid through the general operating 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) Geographical area in which administrative regulation will be implemented: Cannot be determined at this time as there have been no comments received.

(b) Kentucky: Cannot be determined at this time as there have been no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The administrative regulation aims at simplicity and understandability. The promulgating body was unable to devise alternative methods as easily understandable but still providing minimum public accountability.

(8) Assessment of expected benefits: The expected benefit is clarification of local government requirements resulting in improved compliance and enforceability.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There are no discernable effects.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There will be no detrimental effect.

(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: KRS 424.220 requires an additional annual financial statement; however, it has specific reporting and publication requirements which do not exist elsewhere.

(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:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not appropriate because this administrative regulation clarifies and establishes only the minimum requirements for local governments.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate for this administrative regulation, except to the extent that the United States Census Bureau will use the fourth quarter financial statement for fiscal courts in performing the year 2000 census.

2. State compliance standards. (UFIR statutes.) (KRS 68.360(2),

KRS 68.210)

3. Minimum or uniform standards contained in the federal mandate. The Bureau of Census has approved the fourth quarter financial statement for fiscal courts.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? Not applicable, see 1 above.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable, see 1 above.

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. Cities, counties, urban-county governments, charter county governments and special districts.

3. State the aspect or service of local government to which this administrative regulation relates. KRS 46.010 mandates the Department for Local Government to prescribe a uniform system of accounting and reporting on the receipt, use and handling of funds other than taxes payable to the state by local governments. This administrative regulation establishes minimum requirements for handling of public funds.

KRS 65.944(1)(a) mandates the provision of specific information to the state local debt officer regarding leases, authorizes the state local debt officer to require additional information on proposed leases and authorizes the state local debt officer to prescribe a form for providing the information. This administrative regulation establishes the required information and prescribes a form.

KRS 65.944(2)(b) mandates approval by the state local debt officer of certain leases and authorizes the state local debt officer to prescribe procedures and adopt regulations for granting approval. This administrative regulation prescribes the procedures and regulations.

KRS 66.045 mandates the provision of specific information to the state local debt officer regarding the issuance of bonds and other obligations and authorizes the state local debt officer to require other information required to provide a complete file on local government debt. This administrative regulation establishes the required information and prescribes a form.

KRS 68.020 mandates the county treasurer to keep financial records as required by the uniform system of accounts prescribed by the state local finance officer. This administrative regulation prescribes the uniform system of accounts as it applies to the county treasurer.

KRS 68.210 mandates the state local finance officer to supervise the county uniform budget system and the administration of accounts and financial operations and mandates the installation of a uniform system of accounts for all counties and county officials. This administrative regulation outlines the county uniform budget system as required for the fiscal court, county clerk and sheriff, and prescribes the required financial records, reports, and chart of accounts for county government.

KRS 68.210 authorizes the state local finance officer to require the submission of financial reports from all officials of local governments and taxing districts. This administrative regulation requires quarterly financial reports from the county clerk, sheriff, county treasurer, and county judge/executive.

KRS 68.210 authorizes the state local finance officer to investigate, examine, and supervise the accounts and operations of all local government officers. This administrative regulation establishes minimum basic requirements for the handling of public funds by local government officers and employees.

KRS 68.250(1) mandates the state local finance officer to approve all county budget forms and classifications and authorizes the state local finance officer to change any form or classification before making such approval. This administrative regulation prescribes the form for the budgets of the fiscal court, county clerk and sheriff.

KRS 68.250(4) authorizes the state local finance officer to refuse to approve a proposed budget that fails to comply with any requirements of law until the county judge/executive authorizes the state local finance officer to make changes as the state local finance officer deems to be required by law. This administrative regulation lists those statutorily

mandated items for which each proposed budget ordinance will be reviewed for compliance prior to approval by the state local finance officer.

KRS 68.350 mandates the state local finance officer to prescribe the books, blanks and forms to be used by county officials in the administration of the fiscal affairs of the county under the budget laws. This administrative regulation prescribes forms for the county budget, amendments to the county budget, budget hearing advertisements, tax rate hearing advertisement, receipts records, disbursement records, receipt forms, inventory records, jail commissary fund records, annual standing order to pre-approve certain recurring expenses, road cost allocation worksheet, reporting of tax rates, and quarterly financial statements.

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: This administrative regulation has been filed to comply with KRS 13A.100(1). There is no fiscal impact as local governments are currently in compliance with the administrative regulation.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Veterinary Examiners
(New Administrative Regulation)**

201 KAR 16:080. Certified animal control agencies.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.235(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) authorizes the board to issue a certificate to any animal control agency that it determines to be qualified. KRS 321.207(2) requires the applicant to comply with administrative regulations promulgated by the board containing standards for the proper storage and handling of the drugs the board has authorized for use, and any other provisions that may be necessary to ensure that the drugs are used safely and solely for the purpose established in the statute. This administrative regulation establishes the qualifications, standards for proper storage, drugs that may be used, and other provisions necessary for the certification of animal control agencies.

Section 1. General Requirements. (1) The applicant shall make application to the board for a certificate as a certified animal control agency as defined by KRS 321.207.

(2) The applicant shall pay the initial certification fee as set forth in 201 KAR 16:015.

(3) The applicant shall apply to the Drug Enforcement Administration, United States Department of Justice, by the appropriate DEA form, for registration as a practitioner, to be designated as "animal shelter" on the appropriate DEA form.

(4) The applicant shall undergo an inspection of the facility by a person authorized by the board prior to issuance of the certificate.

(5) A certified animal control agency shall submit to inspection by a person authorized by the board upon request.

(6) A certified animal control agency shall designate an on-site manager of the shelter. The agency shall notify the board within ten (10) days of any change in the on-site manager of the shelter.

Section 2. Approved Drugs. A certified animal control agency shall be restricted to the purchase of sodium pentobarbital and sodium pentobarbital with lidocaine for the purpose of euthanizing animals. Federal Schedule II order forms (DEA-222) are required for the purchase of sodium pentobarbital.

Section 3. Records. (1) A certified animal control agency shall maintain records of purchases and administration of sodium pentobarbital and sodium pentobarbital with lidocaine for a period of not less than two (2) years.

(2) Records of administration shall include:

- (a) The date of use;
 - (b) Identification of the animal;
 - (c) The amount of the drug used;
 - (d) The signature of the person administering the drug;
 - (e) The signature of the on-site manager certifying the accuracy of the administration of sodium pentobarbital and sodium pentobarbital with lidocaine not less than once per month; and
 - (f) The signature of the on-site manager certifying to the accuracy of the records.
- (3) Records of purchases of sodium pentobarbital and sodium pentobarbital with lidocaine shall be maintained in a separate file from the records of administration.
- (4) These records are subject to audit by the Drug Enforcement Administration or authorized employees of the board to determine adequacy, accuracy, and validity of the recordkeeping.
- (5) The records of purchases and administration shall be maintained at the location of the agency.

Section 4. Storage. (1) Sodium pentobarbital and sodium pentobarbital with lidocaine shall be stored in a securely locked cabinet within a locked storage room.

(2) Schedule II order forms shall be stored in a securely locked cabinet within a locked storage room.

Section 5. Disposal of Needles and Medical Waste. All needles generated in the process of euthanizing animals shall be disposed of pursuant to KRS 217.177(6).

Section 6. Disciplinary Action. A certified animal control agency shall be subject to disciplinary action pursuant to KRS 321.235(7) for a violation of applicable statutes or administrative regulations.

NANCY L. BLACK, Director

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 23, 1999, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 16, 1999, 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. 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: Nancy L. Black, Director, Division of Occupations and Professions, PO Box 1360, Frankfort, Kentucky 40602-1360, Phone: (502) 564-3296 ext. 224; Fax: (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency Contact: Nancy Black

(1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a certified animal control agency.

(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 require-

ments 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 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: 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: Yes

(c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that only qualified applicants obtained certification and maintained their certification in accordance with statute.

(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 applicants are treated uniformly under the law.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Veterinary Examiners
(New Administrative Regulation)**

201 KAR 16:090. Certification as an animal euthanasia specialist.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.235

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(4) requires the board to issue certification as a certified animal euthanasia specialist to any person whom it determines to be qualified. This administrative regulation establishes the qualifications that are necessary for issuance of the certificate and requirements for functioning under the certification.

Section 1. In order to qualify for certification as a certified euthanasia specialist an applicant shall:

(1) Be twenty-one (21) years of age;

(2) Be of good moral character;

(3) Not been convicted of, or entered an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the con-

viction or entry of such plea, one (1) or more of the following:

(a) A felony;

(b) An act involving moral turpitude or gross immorality; or

(c) A violation of any law, rule, or administrative regulation of this state, any other state, or the federal government which involves the use or trafficking of illegal substances;

(4) Have received a high school diploma or GED;

(5) Pay the initial certification fee as specified in 201 KAR 16:015;

(6) Be employed by a certified animal control agency;

(7) Complete a sixteen (16) hour euthanasia specialist training course as set forth in Section 2 of this administrative regulation; and

(8) Complete the "Application for Animal Euthanasia Specialist Certification".

Section 2. Euthanasia Specialist Training Course Curriculum. (1) The curriculum for the sixteen (16) hour euthanasia specialist course shall provide information on the following subjects:

(a) Pharmacology, proper administration and storage of euthanasia solutions; minimum of eight (8) hours;

(b) Federal and state laws regulating the storage and accountability for euthanasia solutions;

(c) Euthanasia specialist stress management;

(d) Proper animal handling with emphasis on easing the trauma and stress to the animal; and

(e) Disposal of euthanized animals.

(2) A training course for euthanasia specialist shall be reviewed and approved by the board prior to presentation. A provider of a euthanasia specialist training shall submit the following information:

(a) A published course or similar description;

(b) Names and qualifications of instructors;

(c) A copy of the program agenda indicating hours of education, coffee, and lunch breaks; and

(d) Official certificate of completion from the sponsoring agency.

Section 3. Employment and Termination. (1) A certified animal euthanasia specialist may function only while employed by certified animal control agency.

(2) Upon termination from a certified animal control agency, a certified animal euthanasia specialist shall not perform animal euthanasia until employed by a certified animal control agency.

Section 4. Duties of a Certified Animal Euthanasia Specialist. The duties of certified animal euthanasia specialist shall include the following:

(1) Preparing animals for euthanasia;

(2) Carefully and accurately recording dosages and drug waste;

(3) Ordering supplies and drugs;

(4) Maintaining the security of all controlled substances and drugs;

(5) Reporting to the board any infraction of KRS Chapter 321 or the administrative regulations promulgated thereunder;

(6) Humanely euthanizing animals;

(7) Disposing of the bodies in a manner in accordance with law and administrative regulations.

(8) Maintaining his certification;

(9) Reporting to the board any change of address; and

(10) Providing a written response to a complaint or inquiry from the board within fifteen (15) working days of receipt.

Section 5. Approved Methods of Euthanasia. (1) A certified animal euthanasia specialist shall perform euthanasia by means of lethal injection on an animal by use of sodium pentobarbital or sodium pentobarbital with lidocaine, in a manufactured dosage form, whose only indication is for euthanizing animals.

(2) When using a lethal solution to perform euthanasia on an animal, a certified animal euthanasia specialist shall use the appropriate solution in accordance with the following methods and in the following order of preference:

(a) Intravenous injection by hypodermic needle;

(b) Intraperitoneal injection by hypodermic needle;

(c) Intracardial injection by hypodermic needle, but only on a sedated or unconscious animal;

- (d) Solution or powder added to food.

Section 6. Disciplinary Action. A certified animal euthanasia specialist shall be subject to disciplinary action pursuant to KRS 321.235(7) and 321.351 for any applicable violation of the Kentucky Revised Statutes or administrative regulations or any federal statutes or regulations.

NANCY L. BLACK, Director

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 23, 1999, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 16, 1999, 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. 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: Nancy L. Black, Director, Division of Occupations and Professions, PO Box 1360, Frankfort, Kentucky 40602-1360, Phone: (502) 564-3296 ext. 224; Fax: (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency Contact: Nancy Black

(1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a certified animal euthanasia specialist.

(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 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: 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: Yes

(c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that only qualified applicants obtained certification and maintained their certification in accordance with statute.

(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 applicants are treated uniformly under the law.

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Kentucky Board of Licensure of Marriage and Family Therapists (New Administrative Regulation)

201 KAR 32:025. Marriage and family therapist associate.

RELATES TO: KRS 335.330

STATUTORY AUTHORITY: KRS 335.320, 335.332

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes the requirements for marriage and family therapist associates.

Section 1. Marriage and Family Therapist Associate. (1) A person desiring to be a marriage and family therapist associate shall apply for and submit to the board an application with a fee of fifty (50) dollars for the first year. The initial application shall include a copy of a supervisory contract with the designated supervisor for approval by the board. No marriage and family therapist associate shall begin practice without a contract which includes a supervisor approved by the board. A marriage and family therapist associate shall cease practice of marriage and family therapy immediately upon termination of the supervisory contract.

(2) An annual renewal fee of twenty-five (25) dollars for each subsequent year shall be submitted to the board. Contract renewal and extension shall be granted in accordance with Section 4 of this administrative regulation.

Section 2. Supervisory Contract. Prior to beginning a course of supervision for the purpose of meeting licensure requirements a marriage and family therapist associate shall contract with an approved supervisor in writing. The approved supervisor enters into a plan of supervised activities for clinical marriage and family therapy experience with a person who meets the definition of a marriage and family therapist associate. The approved supervisor assumes responsibility for the marriage and family therapist associate's development and the welfare of the clients served by the marriage and family therapist associate. If a new supervisory contract is entered into with a different supervisor, approval shall be obtained from the board.

Section 3. Contract Terms. The supervisory contract between the marriage and family therapist associate and the approved supervisor shall contain the following terms:

- (1) The name of the marriage and family therapist associate;
- (2) The name and license number of the approved supervisor of

record;

(3) The name and license number of other approved supervisors;

(4) The agency, institution, or organization where the experience will be received;

(5) A detailed description of the nature of the practice including the type of:

(a) Clients to be seen;

(b) Therapies and treatment modalities which shall be used including the prospective length of treatment; and

(c) Problems which shall be treated;

(6) The nature, duration, and frequency of the supervision, including the:

(a) Number of hours of supervision per week;

(b) Amount of group and individual supervision; and

(c) Methodology for transmission of case information;

(7) The conditions or procedures for termination of the supervision; and

(8) A statement that:

(a) The approved supervisor of record understands that he shall be held accountable to the board for the care given to the marriage and family therapist associate's clients; and

(b) The approved supervisor of record and other supervisors meet the criteria established in existing administrative regulation.

Section 4. Contract Renewal and Extension. Upon approval by the board, the supervisory contract shall be issued for three (3) years. Following review said supervisory contract may be renewed upon request by the marriage and family therapist associate for a term of one (1) year. A person not completing the requirements of the contract may apply to the board for a one (1) year extension.

Section 5. Incorporation by Reference. (1) Plan of Supervision for Clinical Marriage and Family Therapy Experience, first edition is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. SOHAN, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: June 17, 1999

FILED WITH LRC: June 17, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 30, 1999, at 10 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 23, 1999, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be 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 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: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 564-3296, FAX (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: Any person who applies to become a marriage and family therapist associate and those licensed marriage and family therapists who serve as supervisors.

(2) Direct and indirect costs or savings to those affected: The direct costs associated with this regulation are the initial application fee of \$50 and the annual renewal fees of \$25.

(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 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 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: To begin practice, a marriage and family therapist associate must have a signed supervisory contract approved by the board.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body: None

(a) Direct or indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: The supervisory contract which is incorporated by reference.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Board funds generated from licensure fees.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented : This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Standardized protection of the public by ensuring the marriage and family therapist associates meet all requirements for licensure.

(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: Board is not aware of any statute, regulation or government policy which may be in conflict or is duplicated by this proposed regulation.

(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 comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all marriage and family therapist associates and licensed marriage and family therapists who serve as supervisors.

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Kentucky Board of Marriage and Family Therapists (New Administrative Regulation)

201 KAR 32:041. Coursework in psychopathology.

RELATES TO: KRS 335.320

STATUTORY AUTHORITY: KRS 335.330

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.330 requires the board to establish the coursework requirements for marriage and family therapists.

Section 1. Coursework in psychopathology for marriage and family therapists certified prior to January 1, 1999. On the date of

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the second annual license renewal, all licensed marriage and family therapists who were certified prior to January 1, 1999, shall provide documentation or verification of experience or education in psychopathology to the board. This requirement may be met by any of the following:

- (1) Coursework in psychopathology. This means one (1) graduate level class in psychopathology;
- (2) Supervised experience with a focus on diagnosis. This is defined as four (4) years full-time clinical experience in marriage and family therapy;
- (3) The supervised experience shall be demonstrated by filing a letter with the board indicating the nature of how the clinical experience relates to psychopathology or use of the Diagnostic and Statistical Manual of Mental Disorders; or
- (4) Completion of equivalent continuing education units relating to psychopathology. This shall be defined as fifteen (15) hours of continuing education units specifically relating to diagnosis via the Diagnostic and Statistical Manual of Mental Disorders or psychopathology.

Section 2. Incorporation by Reference. (1) Application for Licensure as a Marriage and Family Therapist or Marriage and Family Therapist Associate, first edition is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. SOHAN, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: June 17, 1999

FILED WITH LRC: June 17, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 30, 1999, at 10 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 23, 1999, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be 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 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: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: Approximately 399 licensed marriage and family therapists in the Commonwealth of Kentucky.

(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: No 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: No comments 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: No change.

2. Second and subsequent years: On the date of the second annual license renewal, all licensed marriage and family therapists certified prior to January 1, 1999, shall be required to provide docu-

mentation or verification of experience or education in psychopathology to the board.

(3) Effects on the promulgating administrative body: The board will be required to spend more time reviewing applications to ensure that the psychopathology coursework requirement is met.

(a) Direct or indirect costs or savings: No specific indirect costs or savings anticipated.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: A new form has been drafted and is incorporated by reference.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Board funds generated from licensure fees.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Brings the administrative regulation into conformity with the statutory requirements.

(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: Board is not aware of any statute, regulation or government policy which may be in conflict or is duplicated by this proposed regulation.

(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 comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all marriage and family therapists.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (New Administrative Regulation)

704 KAR 20:011. Repeal of 704 KAR 20:065, 704 KAR 20:085, 704 KAR 20:090, 704 KAR 20:110, 704 KAR 20:150, 704 KAR 20:240, 704 KAR 20:245, 704 KAR 20:250, 704 KAR 20:270, 704 KAR 20:285, 704 KAR 20:350, 704 KAR 20:360, and 704 KAR 20:370.

RELATES TO: KRS 13B.120(2)(f), 161.020, 161.028, 161.030, 161.115

STATUTORY AUTHORITY: KRS 13B.120, 161.020, 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: 704 KAR 20:065, 704 KAR 20:085, 704 KAR 20:090, 704 KAR 20:110, 704 KAR 20:150, 704 KAR 20:240, 704 KAR 20:245, 704 KAR 20:250, 704 KAR 20:270, 704 KAR 20:350, 704 KAR 20:360, and 704 KAR 20:370 are no longer required because the Education Professional Standards Board has adopted and promulgated new administrative regulations governing the certification of teachers in these fields; the administrative regulations to be repealed govern teacher certification options which are no longer available. 704 KAR 20:285 is no longer required because KRS 161.115, Deletion of certificate, certificate endorsement, or subject specialization from official certification record at holder's option; restoration of deleted areas of certification,

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prescribes the detailed processes necessary for these actions; therefore, the administrative regulation formerly governing these same processes is redundant and no longer necessary.

Section 1. 704 KAR 20:065, Standard high school certificate, is hereby repealed.

Section 2. 704 KAR 20:085, Standard elementary certificate, is hereby repealed.

Section 3. 704 KAR 20:090, Provisional elementary certificate, is hereby repealed.

Section 4. 704 KAR 20:110, Business administrators, is hereby repealed.

Section 5. 704 KAR 20:150, Standard certification for school media librarian, is hereby repealed.

Section 6. 704 KAR 20:240, Speech and communication disorders; teachers provisional certificate, is hereby repealed.

Section 7. 704 KAR 20:245, Provisional certificate for teachers of exceptional children - trainable mentally handicapped, is hereby repealed.

Section 8. 704 KAR 20:250, Severely/profoundly handicapped; teacher's provisional certificate; teaching endorsement, is hereby repealed.

Section 9. 704 KAR 20:270, Standard certificate for teachers of exceptional children, is hereby repealed.

Section 10. 704 KAR 20:285, Deletion of certification information, is hereby repealed.

Section 11. 704 KAR 20:350, Standard certificate for teaching in the middle grades 5-8, is hereby repealed.

Section 12. 704 KAR 20:360, Standard certificate for teaching in the early elementary grades K-4, is hereby repealed.

Section 13. 704 KAR 20:370, Standard certificate for teaching music, grades K-12, is hereby repealed.

TIM DEDMAN, Chair

MARCIA SEILER, Attorney

APPROVED BY AGENCY: June 30, 1999

FILED WITH LRC: July 6, 1999 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on August 24, 1999, at 10 a.m. in the 1st Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, five work 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. 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: Dr. Susan Leib, Associate Commissioner, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, 502-573-4606, FAX 502-573-1610.

REGULATORY IMPACT ANALYSIS

Contact person: Marcia Seiler

(1) Type and number of entities affected: Teacher applicants seeking certification in Kentucky from the Education Professional

Standards Board, and teacher training institutions seeking state accreditation from the Education Professional Standards Board.

(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 promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and 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: 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternative were rejected: Regulations must be repealed because the certificates once issued under these regulation titles are no longer offered.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas 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: 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: These repeals continue and complement the statutory mandate of KRS 161.030 to "reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence". New certification requirements have been adopted by the Education Professional Standards Board and promulgated under 704 KAR Chapter 20 of the Kentucky Administrative Regulations.

(11) TIERING: Is tiering applied? (Explain why tiering was or was not used) No. Certification requirements are the same for all applicants.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (New Administrative Regulation)

704 KAR 20:730. Standards for certified school personnel.

RELATES TO: KRS 161.020, 161.028, 161.030, 161.048, 161.095, 161.120

STATUTORY AUTHORITY: KRS 161.020, 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028 requires the Education Professional Standards Board establish standards for obtaining and maintaining a teaching certificate. This administrative regulation contains the standards adopted by the board that certified school personnel must achieve to gain and sus-

tain certification.

Section 1. New Teacher Standards for Preparation and Certification. The approved program of preparation for each certification shall be designed to address the student academic expectations as provided by 703 KAR 4:060; to meet the content standards provided by 704 KAR 20:696; to prepare a candidate to teach children, including a child from a culturally diverse background, and manage tasks identified in the following teacher performance standards:

(1) New Teacher Standard I, designs and plans instruction. The teacher designs and plans instruction and learning climates that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(2) New Teacher Standard II, creates and maintains learning climates. The teacher creates a learning climate that supports the development of student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(3) New Teacher Standard III, implements and manages instruction. The teacher introduces, implements, and manages instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(4) New Teacher Standard IV, assesses and communicates learning results. The teacher assesses learning and communicates results to students and others with respect to student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(5) New Teacher Standard V, reflects and evaluates teaching and learning. The teacher reflects on and evaluates specific teaching and learning situations and programs;

(6) New Teacher Standard VI, collaborates with colleagues, parents, and others. The teacher collaborates with colleagues, parents, and other community agencies to design, implement, and support learning programs that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(7) New Teacher Standard VII, engages in professional development. The teacher evaluates his overall performance with respect to modeling and teaching Kentucky's learning goals established in KRS 158.6451, refines the skills and processes necessary, and implements a professional development plan;

(8) New Teacher Standard VIII, content knowledge. The teacher demonstrates a current and sufficient academic knowledge of certified content areas to develop student knowledge and performance in those areas; and

(9) New Teacher Standard IX, demonstrates implementation of technology. The teacher uses technology to support instruction: access and manipulate data; enhance professional growth and productivity; communicate and collaborate with colleagues, parents, and the community; and conduct research.

Section 2. Experienced Teacher Standards. A fifth-year program plan other than a plan in a professional education specialty for which the Education Professional Standards Board has established specific standards in 704 KAR Chapter 20 shall be consistent with the following experienced teacher standards:

(1) Experienced Teacher Standard I, demonstrates professional leadership. The teacher provides professional leadership within the school, community, and education profession to improve student learning and well-being;

(2) Experienced Teacher Standard II, demonstrates knowledge of content. The teacher demonstrates content knowledge within own area of certification and application to other areas, content areas, and certification areas;

(3) Experienced Teacher Standard III, designs and plans instruction. The teacher designs and plans instruction that develops student abilities to use communication skills, apply core concepts,

become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(4) Experienced Teacher Standard IV, creates and maintains learning climate. The teacher creates a learning climate that supports the development of student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(5) Experienced Teacher Standard V, implements and manages instruction. The teacher introduces, implements, and manages instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(6) Experienced Teacher Standard VI, assesses and communicates learning results. The teacher assesses learning and communicates results to students and others with respect to student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(7) Experienced Teacher Standard VII, reflects and evaluates teaching and learning. The teacher reflects on and evaluates teaching and learning;

(8) Experienced Teacher Standard VIII, collaborates with colleagues, parents, and others. The teacher collaborates with colleagues, parents, and other agencies to design, implement, and support learning programs that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(9) Experienced Teacher Standard IX, engages in professional development. The teacher evaluates own overall performance in relation to Kentucky's learner goals as established in KRS 158.6451 and implements a professional development plan; and

(10) Experienced Teacher Standard X, demonstrates implementation of technology. The teacher uses technology to support instruction: access and manipulate data; enhance professional growth and productivity; communicate and collaborate with colleagues, parents, and the community; and conduct research.

TIM DEDMAN, Chair

MARCIA SEILER, Attorney

APPROVED BY AGENCY: June 30, 1999

FILED WITH LRC: July 6, 1999 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on August 24, 1999, at 10 a.m. in the 1st Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, five work days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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. 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: Dr. Susan Leib, Associate Commissioner, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact person: Marcia Seiler

(1) Type and number of entities affected: Teacher applicants seeking certification in Kentucky from the Education Professional Standards Board; teachers seeking renewal of their certificate, rank change, or additional certification; and teacher training institutions seeking state accreditation from the Education Professional Standards Board.

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

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(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 promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and 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: 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternative were rejected: Placement of the standards for certified school personnel in a separate administrative regulation will both emphasize their importance and allow teachers and administrators to more easily reference these standards. The addition of a technology standard will emphasize the growing significance of technology as a classroom resource.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas 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: 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: This regulation continues the Education Professional Standards Board's statutory mission to maintain high standards of teacher competence.

(11) TIERING: Is tiering applied? No. Standards relevant to certification requirements are the same for all applicants.

**CABINET FOR WORKFORCE DEVELOPMENT
Department for Employment Services
Division of Unemployment Insurance
(New Administrative Regulation)**

787 KAR 1:201. Repeal of 787 KAR 1:200.

RELATES TO: KRS 341.380

STATUTORY AUTHORITY: KRS 151B.020, 341.115

NECESSITY, FUNCTION, AND CONFORMITY: 787 KAR 1:200 is not required because KRS 341.380 determines the calculation of the maximum weekly benefit amount payable to an eligible worker for weeks of unemployment for those workers whose benefit year commences on or after the first day of that year and prior to the first day of July of the next following year.

Section 1. 787 KAR 1:200, Maximum weekly benefit rate, is hereby repealed.

MARGARET WHITTET, Commissioner

RON HOLLAND, Director

SARAH JACKSON, General Counsel

APPROVED BY AGENCY: July 7, 1999

FILED WITH LRC: July 13, 1999 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on, Monday, August 23, 1999, at 9:30 a.m. at the Health Services Cabinet Auditorium, 275 East Main Street, First Floor, Health Services Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by, Wednesday, August 16, 1999, five work 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: Ron Holland, Director, Division of Unemployment Insurance, Cabinet for Workforce Development, 2nd Floor, 275 East Main Street, Frankfort, Kentucky 40621, Phone: (502) 564-2900, FAX: (502) 564-5502.

REGULATORY IMPACT ANALYSIS

Contact Person: Ron Holland

(1) Type and number of entities affected: 79,000 Kentucky employers.

(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: None resulting from this administrative regulation.

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: Not applicable.

(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: 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

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- (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 benefits claimants 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? No
2. State what unit, part or division of local government this administrative regulation will affect.
3. State the aspect or service of local government to which this administrative regulation relates.
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 (+/-): None
Expenditures (+/-): None
Other Explanation:

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance (New Administrative Regulation)

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

RELATES TO: KRS 287.030(4), 304.9-135
STATUTORY AUTHORITY: KRS 304.9-135(2)(f)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.9-135(2)(f) requires the commissioner to specify the disclosure forms required by KRS 304.9-135(2)(b), (c), and (e). This administrative regulation specifies the disclosure forms for use by financial institutions authorized to engage in insurance agency activities.

Section 1. Definitions. (1) "Financial institutions" is defined by KRS 304.9-135(1)(a).

(2) "Insurance agency activities" is defined by KRS 304.9-135(1)(b).

Section 2. Application. This administrative regulation shall apply to a financial institution authorized by law to engage in insurance agency activities in the state of Kentucky.

Section 3. Disclosures. (1) A financial institution authorized to engage in insurance agency activities shall provide to an insurance consumer the following disclosure forms in accordance with KRS 304.9-135(2)(b), (c), and (e) which are incorporated by reference into this administrative regulation:

- (a) FI-01, Consumer Acknowledgment Form; and
- (b) FI-02, Notice of Free Choice of Agent and Insurer and Financial Institution Disclosures.

(2) Each disclosure form required by subsection (1) of this section shall be:

- (a) Signed or initialed by the insurance consumer; and
- (b) Dated as of the date that the insurance consumer signed or initialed the disclosure form.

Section 4. Material Incorporated by Reference. (1) The following material is incorporated by reference:

- (a) FI-01, "Consumer Acknowledgment Form (06/1999 edition)", Department of Insurance; and
- (b) FI-02, "Notice of Free Choice of Agent and Insurer and Financial Institution Disclosures (06/1999 edition)", Department of Insurance.

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary

APPROVED BY AGENCY: June 17, 1999

FILED WITH LRC: June 16, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 24, 1999, at 10 a.m. at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by August 17, 1999, 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 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: Sharron S. Burton, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Phone: (502) 564-1936 ext. 249, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Sharron S. Burton

(1) Type and number of entities affected: This administrative regulation will affect all financial institutions licensed to engage in insurance agency activities in the state of Kentucky. Currently, there are forty-one (41) financial institutions authorized by the department to engage in insurance agency activities in this state.

(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: The department has received no public comments regarding this issue.

(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 department has received no public comments regarding this issue.

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

1. First year following implementation: KRS 304.9-135(2) requires all financial institutions authorized to engage in insurance agency activities in the state of Kentucky to disclose specific information to consumers who purchase an insurance product through the financial institution. This administrative regulation establishes the format for the disclosures required pursuant to KRS 304.9-135(2). Because the disclosure requirements currently exist by statute, the department does not anticipate that this administrative regulation will have an effect upon the costs of complying with the statutory disclosure requirements.

2. Second and subsequent years: Financial institutions authorized to engage in insurance agency activities in the state of Kentucky will be required, by statute, to disclose information to consumers who purchase insurance through the financial institution for the second and subsequent years. The format for disclosure promulgated by this administrative regulation will be available for financial institutions for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation simply establishes a format for the disclosure documents required pursuant to KRS 304.9-135(2). The Department does not foresee any direct or indirect costs or savings on the administrative body as a result of this administrative regulation.

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: The budget for the Department of Insurance will be used to implement and enforce this administrative 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: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.9-135(2)(f) requires the commissioner to promulgate administrative regulations to specify the disclosure forms required by KRS 304.9-135(2)(b), (c), and (e). For this reason, no other alternatives were considered.

(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 department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.

(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:

(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 is not applied since this administrative regulation applies to all financial institutions authorized to engage in insurance agency activities in the state of Kentucky.

**CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(New Administrative Regulation)**

902 KAR 20:221. Repeal of 902 KAR 20:220.

RELATES TO: KRS 216B.107

STATUTORY AUTHORITY: KRS 13A.310(1)

NECESSITY, FUNCTION, AND CONFORMITY: 902 KAR 20:220 is no longer required because KRS 216B.107, which authorized the cabinet to issue a dual license to an acute care hospital, has been repealed.

Section 1. 902 KAR 20:220, Dual licensure of hospitals, is hereby repealed.

TIMOTHY L. VENO, Inspector General
JOHN MORSE, Secretary
JOHN WALKER, Attorney

APPROVED BY AGENCY: July 8, 1999

FILED WITH LRC: July 9, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 23, 1999, at 9 a.m., at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by August 16, 1999, 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, in which case the person requesting the transcript shall be responsible for payment. 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: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ralph Von Derau

(1) Type and number of entities affected: None

(2) Direct and indirect costs or savings to those affected:

(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: No public comments addressing this issue 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 public comments addressing this issue 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

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No direct or indirect costs should be associated with this program beyond printing this new regulation.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: No additional paperwork.

(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: General 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 public comments addressing this issue were received.

(b) Kentucky: No public comments addressing this issue were received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 216B.107, which authorized the cabinet to issue a dual license to an acute care hospital, has been repealed.

(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: None

(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:

(11) TIERING: Is tiering applied? No. This is a repeal of 902 KAR 20:220.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of July 13, 1999

The July meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, July 13, 1999 at 10:30 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 June 8, 1999 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Marshall Long and Dick Roeding; Representatives James Bruce, Jimmy Lee, and Woody Allen.

LRC Staff: Donna Little, Stephen Lynn, Susan Wunderlich, Angela Phillips, Donna Valencia, Susan Eastman, Edna Lowery, Ellen Benz-ing, Biff Baker, Sheila Hardy, and Cory Birdwhistle.

Guests: Representative Jodie Haydon; Linda Renschler, Janice Ernst, Richard Casey, Diana L. Barber, KHEAA; Eddie Mattingly, Revenue Cabinet; Tom Troth, Department for Local Government; Bill Schmidt, Lloyd Vest, Rusty MacSwords, Board of Medical Licensure; Nathan Goldman, Board of Nursing; Jennifer Fetter, John Wilson, John Phillips, David C. Yancy, Department of Fish and Wildlife; Mark Mangeot, Mark C. Ritter, Sue Osborne, Robert A. Bickner, Dara Carlisle, Brad Stone, Katie Ashcraft, Rob Daniell, Bob Logan, Carl Campbell, Richard Prelopiski, Jim Villines, Natural Resources and Environmental Protection Cabinet; Brenda Priestley, Tamela Biggs, Department of Corrections; Pamela Froncek, Barbara W. Jones, Justice Cabinet; Charlie Harmon, Transportation Cabinet; Pamela Sewell, Mary Ellen Wiederwohl, Marilyn Troupe, Education Professional Standards Board; Isaac S. Scott, Deborah T. Eversole, Public Service Commission; Mark Hooks, Rice Leach, Danise Newton, David Klee, Department for Public Health; Judith Walden, Department of Housing, Buildings and Construction; John Gray, Ralph Von Derau, Louis Kurtz, Paige Shank, Ann Gordon, Jayne Arnold, Dee Swain, Karen Doyle, Colleen Ryall, Stuart Owen, Pamela J. Aldridge, Gail Lightner, Mark Cornett, Mike Littlefield, Cabinet for Health Services; Cookie Whitehouse, Sandra Rolland, Stephanie Brammer, Debbie Salleng, Cliff Jennings, Thelma Cornett, B.J. Jacobs, Cabinet for Families and Children; Larry Maggard, AIK; Bart Baldwin, Children's Alliance; John D. Howard, Contractor's Waste Service; Sam Crawford, Kentucky Farm Bureau; Laurie Berry, Kentucky Association of Chiropractors; Daniel T. Yates, Kentucky Association of Electric Cooperatives; Michael W. Wooden, Wooden and Associates; Ron Sheets, Rural Electric Corps; Mike Helton, KPMA; Mike Ridenour, Kentucky Chamber of Commerce; Ted Bradshaw, IIAK; Jim P. Urban, Jody Curry, Oldham County Planning Commission; Billy O'Banion, Owen County Fiscal Court; Mary Hass, Brain Injury Association of Kentucky.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Kentucky Higher Education Assistance Authority: Division of Student Services: KHEAA Grant Programs

11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5. Richard Casey, General Counsel; Diana Barber, Assistant General Counsel; and Linda Renschler, State Grant Coordinator, represented the Authority.

In response to questions by Senator Roeding, Mr. Casey stated that: (1) the 9,270 students who received Kentucky tuition grants for the 1997-1998 academic year were Kentucky residents who attended twenty private non-profit postsecondary institutions in Kentucky; and (2) the 32,920 students who received college access program grants for the 1998-1999 academic year were Kentucky residents who attended 81 public and private postsecondary institutions in Kentucky.

In response to questions by Senator Roeding, Ms. Renschler stated that: (1) the grants were funded by: (a) approximately 32 million dollars from the general fund; and (b) an additional \$312,000 from the federal government for the state student incentive grant (SSIG) program that funded the college access program grants; (2) because the Kentucky tuition grant and college access programs were need-based, applicants were required to submit a Free Appli-

cation for Federal Student Aid (FAFSA), which was available from high school guidance counselors or college financial aid offices; (3) the Authority: (a) received the information from the FAFSA; and (b) determined if the applicant met the need-based criteria; (4) if the family contribution did not exceed \$1500, a student would be eligible for a college access program (CAP) grant; (5) the amount of a CAP grant: (a) was tied to the community college tuition rate; and (b) would be a maximum of \$1100 for next year; and (6) over 40,000 Kentucky students received need-based grants for higher education.

In response to questions by Representative Lee, Mr. Casey stated that: (1) the Authority administered the Kentucky Educational Excellence Scholarship (KEES) program; (2) a student who graduated from a non-accredited high school, such as Christian Academy, would: (a) be eligible to receive a supplemental KEES award based on the student's ACT test scores; and (b) not be eligible to receive a KEES award based on the student's grades in high school or college; (3) the requirements for the KEES program were established by statute [KRS 164.7879]; (4) the base scholarship amount was: (a) based on the student's high school grades at a 1: public high school; or 2. private high school certified by the Department of Education; and (5) the grades a student earned in a postsecondary institution were: (a) a factor in retaining a KEES award; and (b) not a factor in earning a KEES award because the award was earned during high school.

Representative Lee stated that: (1) because the requirements at a non-accredited private school may not be as strict as, or meet, the state guidelines for a high school diploma, he understood the reasons for requiring the base scholarship amount to be dependent on a student's grades at a public or accredited private school; (2) he: (a) did not understand why a student at a public higher education institution would not be eligible for a KEES award if the student maintained the necessary level of grades at the public institution; and (b) believed those students: 1. were penalized for not attending a public or accredited high school; and 2. should be eligible for an award because their families contributed to the tax base for those awards; (3) a student should be eligible for a KEES award after the first year of postsecondary education if the student: (a) graduated from a private, non-accredited high school; and (b) maintained a qualifying grade point average at a public higher education institution; and (4) he hoped the General Assembly would approve the necessary statutory changes during the 2000 Regular Session.

In response to questions by Senator Roeding, Mr. Casey stated that: (1) the requirements for KEES scholarship eligibility were established by statute; (2) he was not prepared to commit the Authority to include this change in the legislative package proposed for the 2000 Regular Session by the Authority because the decision involved a policy determination; and (3) the Authority's executive director would be happy to discuss this change with the members.

In response to a question by Representative Lee, Mr. Casey stated that he would inform the executive director that the Subcommittee felt it was an injustice that those individuals who met the grade level requirements in a public higher education institution were not eligible for the KEES program awards.

Ms. Barber stated that she wanted to clarify that the funding source for the KEES program came from the lottery revenue.

Representative Lee stated that: (1) the lottery revenue was deposited in the general fund; (2) a broad range of Kentucky citizens bought lottery tickets; (3) the KEES eligibility requirements denied money to individuals who: (a) maintained the necessary grade point average in postsecondary education; and (b) had not attended a public or accredited high school; and (4) students who maintained the necessary grade point average in college should be eligible for the KEES program during their second year of college.

Senator Roeding stated that: (1) while special funds had been earmarked for this program, the use of those funds meant that general fund dollars were not required; and (2) if money had not been earmarked for this program, general fund dollars would have been used.

In response to questions by Representative Lee, Ms. Renschler and Mr. Casey stated that: (1) the special supplement amount was \$500 maximum for next year for an SAT or ACT score over 28; and (2) while the base scholarship amount varied depending on the student's grades, a student who maintained a 4.0 grade point average over four years of high school would earn \$2,000 per year.

This administrative regulation was amended as follows: Section 1(13) was amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Department For Local Government: Development Finance

109 KAR 9:010. Area Development Fund. Tom Troth, General Counsel, represented the Department.

In response to questions by Senator Roeding, Mr. Troth stated that: (1) this administrative regulation had been amended to delete language that authorized the area development district boards to select the projects because: (a) KRS 42.350 clearly placed the authority for selection of projects with the area development district boards; and (b) KRS 13A.120(2)(e) and (f) prohibited the promulgation of an administrative regulation that repeated or summarized a statute; (2) while the deletion of that language created confusion that the selection authorization had been removed from the boards, the same amount of local control presently existed because the statutory provisions had not been changed; and (3) this administrative regulation required submission of documentation required to verify compliance with the statutory provisions, which established specific requirements for an application.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (2) Sections 2 and 5 were amended to specify the names of the required forms; (3) Section 3 was amended to: (a) clarify the requirements for submitting a grant proposal; (b) correct a statutory citation; and (c) delete the requirement that a proposal be accompanied by a digitized map consistent with the Water Resources Development Commission Digital Submission Standards, because those standards have not been finalized; (4) Section 6(2) was amended to specify that: (a) funds not granted and disbursed to a beneficiary agency for a capital project at the end of a biennium shall be reallocated among the area development districts; and (b) excess grant money disbursed to a beneficiary agency for a capital project but not expended at the end of a biennium shall be returned in accordance with KRS 42.355(2); and (5) Sections 1 through 9 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Board of Medical Licensure

201 KAR 9:041. Fee schedule. Dr. Bill Schmidt, Executive Director; Dr. Danny Clark, Board President, and Lloyd Vest, General Counsel, represented the Board.

Representative Bruce stated that he believed the fee increases in this administrative regulation contributed to rising medical and insurance costs.

In response to questions by Representative Lee, Dr. Clark stated that: (1) this administrative regulation established a fee schedule for licensure of physicians, including doctors of medicine and osteopathy; (2) the fees relating to physician assistants were established in 201 KAR 9:084; and (3) the fee schedule for physician was amended to fund the impaired physician program, which: (a) had been authorized by the state; (b) initially received \$85,000 in funding from malpractice insurance carriers; (c) had a shortfall of approximately \$55,000 this year because: 1. one malpractice insurance carrier had gone out of business; and 2. the second carrier reduced its contributions by fifty percent; and (d) needed additional funds because: 1. the number of people supervised in the program had increased; and 2. additional staff was required to supervise the increased number of physicians involved in the program.

In response to questions by Senator Long, Dr. Schmidt stated that: (1) while a small percentage of the fee increase would be used for the Board's daily administrative costs, the majority of the fee increase was needed to fund the impaired physicians program; and (2) because of the work of Dr. Burns Brady, Kentucky's impaired

physician program was one of the most successful programs in the nation.

Senator Long stated that he: (1) appreciated the work of Dr. Brady; and (2) believed the impaired physicians program was: (a) a good program; and (b) worthy of the fee increase.

In response to questions by Senator Roeding, Dr. Schmidt stated that the Board: (1) had a surplus of a little less than \$100,000 for the past fiscal year; and (2) anticipated that the fee increase would raise an additional \$250,000 for the Board, of which: (a) \$160,000 would be used for the impaired physicians program; and (b) the remainder would be used for the daily operation of the Board.

Dr. Clark stated that in addition to the increased funding for the program, the Board: (1) had hired another senior investigator during the last year; and (2) needed to hire another attorney to meet the increased workload of the Board.

Senator Roeding stated that he: (1) was worried that this fee increase would be passed along to patients; (2) did not believe the fee increase was necessary; and (3) would have a tough time voting for a similar increase in pharmacy fees for similar reasons.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Section 1 was amended to comply with the drafting requirements of KRS 13A.222(4).

This administrative regulation was approved as amended with Senator Roeding objecting.

201 KAR 9:084. Fee schedule. In response to questions by Representative Lee, Dr. Schmidt stated that: (1) the amount of money generated by the fee increases for physician assistants would go primarily to cover administrative costs; (2) approximately 300 physician assistants had been certified in Kentucky; and (3) because the Board did not receive general fund appropriations, the Board was funded through the collection of fees.

Representative Lee stated that: (1) most physician assistants: (a) were employed in salaried positions; and (b) were generally not able to pass the increase to patients; and (2) he: (a) shared Senator Roeding's concerns regarding this fee increase; and (b) believed agencies should: 1. not be funded entirely by fees; and 2. request appropriate funding from the General Assembly.

This administrative regulation was amended as follows: (1) the TITLE was amended to clarify that the fees related to physician assistants; (2) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (3) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f).

This administrative regulation was approved as amended with Representative Lee and Senator Roeding objecting.

201 KAR 9:330 & E. Determination of death by a paramedic. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 5 was amended to clarify that KRS 311.660(6) permitted the medical director of an ambulance service to require a paramedic employed by that service to contact the service prior to making a determination of death; and (4) Section 1, 2, 3, 4, 5, and 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 9:335 & E. Discontinuance of resuscitation by a paramedic. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 1 and 2 were amended to clearly establish when a paramedic may discontinue resuscitation; (4) Section 8 was amended to clarify that a paramedic

shall not discontinue resuscitation or declare a person dead if the paramedic was off-duty or outside the service area of his ambulance service or EMS provider; and (5) Section 1, 2, 3, 4, 7, and 8 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 9:340 & E. Training of paramedics in determination of death and discontinuance of resuscitation. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 6 was amended to clarify that a paramedic course taught in Kentucky shall include a course of instruction that complied with the requirements established in this administrative regulation; (4) Section 7 was amended to clarify that a paramedic seeking re-certification shall successfully complete the training within ninety (90) days of his certification; and (5) Section 1, 2, 4, 5, 6, and 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Board of Nursing

201 KAR 20:420 & E. Determination of death by a registered nurse employed by an ambulance service. Nathan Goldman, General Counsel, represented the Board.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 5 was amended to clarify that KRS 314.181(6) permitted the medical director of an ambulance service to require a registered nurse employed by that service to contact the service prior to making a determination of death; and (4) Section 1, 2, 3, 4, 5, and 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 20:430 & E. Discontinuance of resuscitation by a registered nurse employed by an ambulance service. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 1 and 2 were amended to clearly establish when a registered nurse may discontinue resuscitation; (4) Section 7 was amended to clarify the requirements if a registered nurse discontinues resuscitation on a patient during transport to a medical facility; and (5) Section 1, 2, 3, 4, and 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 20:440 & E. Training of registered nurses employed by an ambulance service in determination of death and discontinuance of resuscitation. Subcommittee staff stated that: (1) the initial staff review stated that this administrative regulation did not comply with statutory authority because this administrative regulation did not establish provisions for training within schools of nursing or for registered nurses applying for licensure by endorsement; and (2) the Board did not include those provisions in this administrative regulation because: (a) those provisions be included in the administrative regulations governing those subject matters, rather than this administrative regulation; and (b) the Board believed that the authorization for registered nurses to make a determination of death applied solely to those nurses employed by an ambulance service, based on the statutory language included in House Bill 285, which: 1. was enacted during the 1998 Regular Session of the General Assembly; and 2. titled AN ACT relating to emergency medical services.

In response to a question by Senator Roeding, Mr. Goldman stated that the Board would recommend clarification of this statute during the 2000 Regular Session of the General Assembly.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were

amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 5 was amended to require the medical director conducting training to submit the required report to the board within twenty (20) days, rather than ten (10) days, after the conclusion of training, to coincide with the similar requirement established in 201 KAR 9:340 for paramedic courses; and (4) Section 1 and 2 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

The Subcommittee approved a motion by Senator Roeding, seconded by Representative Lee, to refer the issues raised by this administrative regulation to LRC for referral to the appropriate subcommittee for recommendations to the next General Assembly.

Natural Resources And Environmental Protection Cabinet: Department for Environmental Protection: Division of Waste Management: Solid Waste Facilities

401 KAR 47:110. Registered permit-by-rule. Bob Logan, Commissioner; Rob Daniell, Director, Division of Waste Management; and Bob Bickner, Solid Waste Program, represented the Department. Billy O'Banion, Owen County Judge Executive, appeared before the Subcommittee.

In response to a question by Senator Long, Mr. Logan stated that this administrative regulation did not affect the statutory changes enacted during the 1998 Regular Session of the General Assembly.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1 through 5 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Standards for Solid Waste Facilities

401 KAR 48:320. Operating requirements for less-than-one acre construction/demolition debris landfills. In response to a question by Chairman Arnold, Mr. O'Banion stated that: (1) while he had some minor concerns with 401 KAR 47:110 and this administrative regulation, he: (a) had been assured by the Cabinet that the Cabinet would work with him to resolve those issues; and (b) did not oppose these administrative regulations; and (2) he knew that he could bring matters of concern to: (a) this Subcommittee; and (b) the Interim Joint Committee on Agriculture and Natural Resources.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) Sections 1 through 6 were amended to comply with the drafting and formatting requirements of KRS 13A.222(4); and (3) citation was made to the licensing requirements for engineers in KRS 322.040.

Department for Surface Mining Reclamation and Enforcement: Bond and Insurance Requirements

405 KAR 10:010 & E. General requirements for performance bond and liability insurance. Carl Campbell, Commissioner, represented the Department.

This administrative regulation was amended as follows: Section 2 was amended to clearly identify the forms required.

Justice Cabinet: Department of State Police: Sexual Assault Nurse Examiner Medical Protocol

502 KAR 12:010. Sexual assault nurse examiner medical protocol. Barbara Jones, General Counsel, and Pam Froncek, Sexual Assault Examiner Coordinator, represented the Department.

This administrative regulation was amended as follows: (1) the title was amended to accurately reflect the subject matter; (2) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (3) Section 1(2) was amended to substitute the statutory term "victim advocate" for "rape crisis center advocate"; (4) Section 3(2) was amended to list the components of the KSP Sexual Assault Evidence Collection Kit; (5) Sections 1, 3, and 4 were amended to comply with the formatting requirements of KRS 13A.220(4); and (6) Sections 1, 2, 3, and 4 were amended to comply with the drafting requirements of KRS 13A.222(4).

Education Professional Standards Board

704 KAR 20:470. Principal Intern Program. Mary Ellen Wiederwohl, Principal Assistant, Marilyn Troupe, and Pamela Sewell, represented the Board.

In response to questions by Senator Roeding, Ms. Troupe stated that: (1) a higher education administrator educator was a person who was: (a) employed by a higher education institution; (b) part of a three member Kentucky Principal Intern Program committee; and (c) required to attend at least four meetings during the year; and (2) the stipend amount was increased from \$200 to \$300 because it had been difficult to find administrator educators willing to accept the additional duties required of members of the principal intern committee.

In response to a question by Representative Bruce, Ms. Troupe stated that the stipend amount was for an entire year.

This administrative regulation was amended as follows: (1) Section 2(1) was amended to cross-reference the applicable administrative regulations; (2) Section 7(2) was amended to provide that if less than 140 contract days remained in the school year when the principal intern was hired, the period of internship shall continue into the following school year; (3) Section 12 was amended to clearly establish the requirements if a principal intern did not successfully complete the principal internship; and (4) Sections 6, 7, 11, and 13 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Public Service Commission: Utilities

807 KAR 5:007. Filing and notice requirements for a generation and transmission cooperative or a distribution cooperative to decrease rates or for a distribution cooperative to change rates to reflect a change in the rates of its wholesale supplier. Deborah Eversole, Assistant General Counsel, and Isaac Scott, Financial Analysis Division, represented the Commission.

In response to questions by Chairman Arnold, Ms. Eversole stated that: (1) utility companies were not required to file with the Public Service Commission a copy of promises made to customers prior to a merger; and (2) she was hesitant to answer whether a situation in which a company that sought approval of a merger told members of the cooperative that a four percent rate reduction would be given, prior to approval of the reduction by the Commission, could be considered fraud or misinformation.

In response to questions by Representative Bruce and Chairman Arnold, Mr. Isaac stated that: (1) the cooperatives were required to file an application with the Commission to consummate the consolidation; (2) the Commission's order that approved the consolidation: (a) did not address any materials that the cooperatives may have used to persuade members to accept or reject the consolidation; and (b) addressed the merits and analysis of the savings available; (3) because the cooperatives indicated in the filings that a rate reduction would be sought, the Commission was aware of the proposal; and (4) the filings for the rate reduction were part of a separate proceeding.

In response to questions by Chairman Arnold and Representative Bruce, Ms. Eversole stated that: (1) KRS 278.455 permitted a cooperative to seek a rate decrease at any time as long as: (a) the rate decrease was allocated among customer classes across the board; and (b) there was no change in rate design among the customer classes; (2) the Commission did not approve the rate decrease proposed by Kinergy because the Commission found that: (a) one customer class did not participate in the rate decrease; and (b) the proposed rate reduction did not conform to KRS 278.455; and (3) to obtain the rate reduction, the cooperative would be required to: (a) reduce the rates for all customer classes; or (b) file for a full rate case in which the cooperative proposed a change in the rate design.

Chairman Arnold stated that he asked about this situation because: (1) two cooperatives involved in a recent merger promised a four percent decrease to the members; and (2) the Commission recently denied that decrease application because one customer class was not included.

In response to questions by Chairman Arnold, Mr. Isaac stated that: (1) the Commission order: (a) required the cooperative to notify the Commission within thirty (30) days whether the cooperative

would: 1. amend the application to comply with KRS 278.455; or 2. proceed with a full rate case; and (b) was dated July 1; (2) to his knowledge, a response had not been filed by the cooperative; and (3) he would inform Subcommittee members if the cooperative had communicated with the Commission since the issuance of the order.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Department of Housing, Buildings and Construction: Division of Building Codes Enforcement: Plumbing

815 KAR 20:020. Parts or materials list. Judith Walden, General Counsel, represented the Department.

In response to a question by Representative Bruce, Ms. Walden stated that this administrative regulation was amended to add a product acceptable for use as a thermo-expansion relief valve for water heaters.

This administrative regulation was amended as follows: Sections 1, 2, and 5 were amended to comply with the drafting requirements of KRS 13A.222(4).

815 KAR 20:120. Water supply and distribution. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7, 9 through 18, 20, and 21 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Cabinet For Health Services: Department for Public Health: Health Services and Facilities

902 KAR 20:091. Facilities specifications, operation and services; community mental health-mental retardation center. Ralph von Derau, Health Planner Principal, represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO, STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 were amended to comply with the drafting requirements of KRS 13A.222(4); and (3) Section 4(6) were amended to include "other qualified practitioners" among those who may direct the administration of medication or chemotherapy.

Kentucky Board of Family Health Care Providers

902 KAR 22:040. Charitable health care providers. Denise Newton, Department for Public Health, represented the Board.

Representative Bruce stated that: (1) the money appropriated for the free health clinics had been reduced in a proposal by Senator Benny Ray Bailey to \$20,000; and (2) he believed that the amount should be increased during the 2000 Regular Session of the General Assembly.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 1 was amended to: (a) define relevant terms; (b) clearly establish the requirement that the forms be filed by a charitable health care provider or sponsoring organization, as appropriate; and (c) correct the date of the forms incorporated by reference; and (4) the forms incorporated by reference were amended to: (a) correct misspelled words; and (b) correct the name of the Cabinet for Health Services.

Office of Inspector General

906 KAR 1:110. Critical access hospital services. Ralph von Derau, Health Planner Principal, represented the Department.

Subcommittee staff stated that Senator Roeding had raised objections that the absence of a requirement for the emergency room registered nurse to be certified in advanced cardiac life support was a departure from the standard of care.

Senator Roeding stated that he: (1) wanted the Kentucky Hos-

pital Association to require as hospital policy that nurses who operated emergency rooms located in rural areas be trained in advanced cardiac life support; and (2) believed the requirement should come from the Kentucky Hospital Association, rather than as a state mandate.

The Subcommittee approved a request by Senator Roeding and Representative Bruce to send the Kentucky Hospital Association a letter requesting the Association to: (1) look into this matter; and (2) report back to Subcommittee staff.

This administrative regulation was amended as follows: (1) the RELATES TO, STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to correct statutory citations; (2) Section 3(6) was amended to refer to statutory staffing requirements; (3) Section 3(10) was amended to refer to statutory quality assessment requirements; (4) Section 4(3) was amended to require a registered nurse to be assigned to emergency room duty on a 24-hour basis; (5) Section 4 was amended to refer to statutory dietary, radiology and pharmacy service requirements; and (6) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 4 were amended to comply with the drafting requirements of KRS Chapter 13A.222(4).

Department for Medicaid Services: Payment and Services

907 KAR 3:090 & E. Acquired brain injury services. Karen Doyle, Pam Aldridge, and Colleen Ryall, Brain Injury Services unit, represented the Department.

This administrative regulation was amended as follows: Sections 1 through 9 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

907 KAR 3:100 & E. Payments for acquired brain injury services. This administrative regulation was amended as follows: (1) Section 5(1)(k) was amended to cross-reference the applicable administrative regulations; (2) Section 5(1)(n)3.b. was amended to specify the requirements for granting an exception to the 230 time period; (3) a new Section 10 was created to incorporate by reference the program manual, that was already incorporated by reference in 907 KAR 3:090, to comply with KRS 13A.225(4); and (4) Sections 1, 3, 5, 6, 8, and 9 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Cabinet For Families And Children: Department for Community Based Services: Protection and Permanency: Division of Program Development: Adult Services

922 KAR 5:070. Adult protective services. Cliff Jennings represented the Department.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (2) Section 1 was amended to clarify the reason for maintaining statewide historical files; (3) Section 5(1)(g) was amended to clarify that factors influencing a worker's decision to implement protective action would be evaluated; (4) Section 13 was deleted due to amending and repeating the statute, in violation of KRS 13A.120(2); and (5) Sections 3 and 5 were amended to comply with the drafting requirements of KRS 13A.222(4).

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Kentucky Higher Education Assistance Authority: Division of Student Services: KHEAA Grant Programs

11 KAR 5:130. Student application. Richard Casey, General Counsel; Diana Barber, Assistant General Counsel; and Linda Renschler, State Grant Coordinator, represented the Authority.

Revenue Cabinet: Department of Law: Division of Tax Policy: General Administration

103 KAR 1:050. Forms manual. Eddie Mattingly, Legislative Liaison and Tax Consultant, represented the Cabinet.

In response to questions by Chairman Arnold, Mr. Mattingly

stated that: (1) because 700 forms had been incorporated by reference in this one administrative regulation, he recognized the need to work with Subcommittee staff to comply with KRS 13A.221(1), which required the Cabinet to divide the general subject matter of this administrative regulation into topics; and (2) he believed that this administrative regulation complied with KRS 131.130(3), which was enacted in 1996.

In response to questions by Senator Roeding, Mr. Mattingly stated that: (1) while the forms were necessary, there was an excessive number of forms used by the Cabinet; and (2) the Cabinet: (a) had eliminated 100 forms through the promulgation of this administrative regulation; and (b) would continue to decrease the number of forms as appropriate.

In response to a question by Representative Bruce, Mr. Mattingly stated that: (1) it would take a collective effort by the Cabinet to fill out all of the forms; and (2) he would take the Subcommittee's concerns about the number of forms back to the Division.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game

301 KAR 2:111. Deer and turkey hunting on federal areas. John Phillips, Deer and Elk Program Coordinator, John Wilson, Regulations Drafter, and David Yancy, Assistant Deer and Elk Program Coordinator represented the Department.

301 KAR 2:182. Repeal of 301 KAR 2:181.

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:070. Kentucky Correctional Institution for Women. Tamela Biggs, Staff Attorney, represented the Department.

Department of Housing, Buildings and Construction: Division of Building Codes Enforcement: Kentucky Building Code

815 KAR 7:105. Kentucky Building Code/1997. Judith Walden, General Counsel, represented the Department.

Cabinet For Health Services: Office of Certificate of Need: Certificate of Need

900 KAR 6:050E. Certificate of need administrative regulations. John Gray, Director, represented the Office.

Cabinet For Families And Children: Department for Community Based Services: Division of Policy Development: Child Welfare

905 KAR 1:180. Protection and permanency policy and procedures manual. Cliff Jennings represented the Department.

Cabinet For Families And Children: Department for Community Based Services: Protection and Permanency: Division of Policy and Development: Children's Residential Services

922 KAR 7:061. Repeal of 922 KAR 7:060. Cliff Jennings represented the Department.

922 KAR 7:101. Repeal of 922 KAR 7:100.

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the August 10, 1999 meeting of the Subcommittee:

Agricultural Experiment Station: University of Kentucky: Fertilizer

12 KAR 4:170E. Maximum chlorine guarantee for tobacco fertilizers.

Department For Local Government: Training Incentives

109 KAR 2:020E. Training incentive.

County Budget

109 KAR 15:020E. State Local Finance Officer Policy Manual.

Finance And Administration Cabinet: Office of the Secretary: Purchasing

200 KAR 5:340. Process for evaluating information for use in determining whether to approve privatization of a government service.

Division of Occupations and Professions: Directory of Regis-

tered Athlete Agents

- 200 KAR 30:010E. Definitions.
- 200 KAR 30:020E. Complaint review
- 200 KAR 30:030E. Requirements for registration.
- 200 KAR 30:040E. Fees.
- 200 KAR 30:050E. Reinstatement.
- 200 KAR 30:060E. Annual contact report.
- 200 KAR 30:070E. Records retention.

Board of Pharmacy

- 201 KAR 2:010. Schools approved by the board.
- 201 KAR 2:020E. Examinations.
- 201 KAR 2:095. Dispensing responsibilities.

Board of Medical Licensure

- 201 KAR 9:175. Physician assistants; certification and supervision.
- 201 KAR 9:310. Continuing medical education.

Board of Registration for Professional Engineers and Land Surveyors

- 201 KAR 18:010. Classes of applicants and licensure requirements.
- 201 KAR 18:050. Branches of professional engineering for testing.
- 201 KAR 18:071. Repeal of 201 KAR 18:070.
- 201 KAR 18:080. Licensing certificates and cards.
- 201 KAR 18:091. Repeal of 201 KAR 18:090.
- 201 KAR 18:100. Seals.
- 201 KAR 18:110. License renewals.
- 201 KAR 18:120. Reissuance of license certificate.

Board of Certification of Fee-Based Pastoral Counselors

- 201 KAR 38:010E. Definitions.
- 201 KAR 38:020E. Application.
- 201 KAR 38:030E. Equivalent course of study.
- 201 KAR 38:040E. Fees.
- 201 KAR 38:050E. Travel expenses of board members.
- 201 KAR 38:060E. Code of ethics.

Kentucky Lottery Corporation: Corporation

- 202 KAR 3:020. Procurement procedures.

Public Protection And Regulation Cabinet: Office of the Petroleum Storage Tank Environmental Assurance Fund: Petroleum Storage Tank Environmental Assurance Fund

- 415 KAR 1:080E. Claims procedures.
- 415 KAR 1:120. Hearings.

Justice Cabinet: Abuse Investigation

- 500 KAR 13:010E. Appeals hearings for substantiated abuse investigations.
- 500 KAR 13:020E. Internal investigations unit.

Department of Corrections: Office of the Secretary

- 501 KAR 6:020E. Corrections policies and procedures.
- 501 KAR 6:999E. Corrections secured policies and procedures.

Department of Juvenile Justice: Child Welfare

- 505 KAR 1:080. Kentucky educational collaborative for state agency children.

Kentucky Board of Tax Appeals: Tax Appeals

- 802 KAR 1:010. Rules of practice and procedure.

Department of Insurance: Health Insurance Contracts

- 806 KAR 17:066E. Medicare supplement insurance policies.

Cabinet For Health Services: Department for Public Health: Health Services and Facilities

- 902 KAR 20:160. Chemical dependency treatment services and facility specifications.
- 902 KAR 20:240. Comprehensive physical rehabilitation hospital services.

Cabinet For Health Services: Department for Medicaid Services

- 907 KAR 1:002. Definitions.
- 907 KAR 1:013E. Payments for hospital inpatient services.
- 907 KAR 1:019. Pharmacy services.
- 907 KAR 1:021. Amounts payable for drugs.
- 907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services.

Department for Mental Health and Mental Retardation Services: Division of Substance Abuse: Substance Abuse

- 908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs.
- 908 KAR 1:311. Repeal of 908 KAR 1:010, 908 KAR 1:020, 908 KAR 1:030, 908 KAR 1:040, 908 KAR 1:050, 908 KAR 1:060, 908 KAR 1:070, 908 KAR 1:080, 908 KAR 1:090, 908 KAR 1:100, 908 KAR 1:110, 908 KAR 1:120, 908 KAR 1:130, 908 KAR 1:140, 908 KAR 1:150, 908 KAR 1:160, 908 KAR 1:170, 908 KAR 1:180, 908 KAR 1:190, 908 KAR 1:200, 908 KAR 1:210, 908 KAR 1:220, 908 KAR 1:230, 908 KAR 1:240, 908 KAR 1:250, and 908 KAR 1:260.
- 908 KAR 1:370. Licensing procedures and standards for persons and agencies operating alcohol and other drug abuse treatment programs.

Division of Mental Health: Institutional Care

- 908 KAR 3:160E. Policies and procedures of Kentucky Correctional Psychiatric Center.

Cabinet For Families And Children: Department for Community Based Services: Protection and Permanency: Division of Policy and Development: Children's Residential Services

- 922 KAR 7:251. Repeal of 922 KAR 7:250.

OTHER BUSINESS:

Department for Housing, Buildings and Construction

815 KAR 35:015. Certification of electrical inspectors. Judith Walden, General Counsel, represented the Department for Housing, Buildings and Construction. Dr. Rice Leach, Commissioner, represented the Department for Public Health.

Subcommittee staff stated that: (1) the issues raised by this administrative regulation were reviewed by the Subcommittee in January, February, and April, 1999; (2) Senate Bill 18, enacted during the 1998 Regular Session of the General Assembly, prohibited a certified electrical inspector from issuing a certificate of approval for electrical wiring for a newly constructed fixture if the fixture: (a) was not connected to a sewage waste disposal system; and (b) had not been inspected by the local health department; (3) some electricians who had wired the new fixtures were unable to be paid for their work, because: (1) some contractors and homeowners had failed to obtain the health department inspection; (b) the fixture could not be inspected; and (c) the Notice of Release could not be obtained; (4) Representative. Lee and Subcommittee staff had met the previous week with representatives from the: (a) Department for Housing, Buildings, and Construction; and (b) Department for Public Health; and (5) the parties were able to agree upon an amendment that would: (a) permit inspection of wiring and payment to the electrical contractor for his work; and (b) implement the provisions of Senate Bill 18.

Representative Lee stated that: (1) he wanted to thank Ms. Walden and Dr. Leach for working together to solve the problem; (2) he thought this amendment would correct an unintentional injustice to the electricians; (3) the amendment provided that: (a) electric service would not be provided to any structure that did not have a septic system; and (b) the electrical contractor would be paid for his work; and (4) he wanted to move that the amendment be approved by the Subcommittee.

Subcommittee staff stated that: (1) this administrative regulation: (a) was not before the Subcommittee as a proposed administrative regulation; (b) was before the Subcommittee as an existing administrative regulation; and (c) could not be amended at that meeting; (2) the Department for Housing, Building, and Construction would have to file: (a) a notice of intent to promulgate an administrative regulation; and (b) an ordinary administrative regulation; (3) the administrative regulation would then be reviewed by the Subcommittee; (4) because this administrative regulation related to the pub-

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lic health, safety, and welfare, an emergency administrative regulation: (a) could be filed; and (b) would go into effect upon filing; and (5) Subcommittee staff would: (a) prepare a suggested amendment; and (b) send it to Ms. Walden to begin the process of amending this administrative regulation.

The Subcommittee adjourned at 12 p.m. until August 10, 1999, at 10:30 a.m. in Room 149 of the Capitol Annex.

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 STATE GOVERNMENT
Meeting of June 23, 1999

The following administrative regulation was available for consideration by the Interim Joint Committee on State Government during its meeting of June 23, 1999, having been referred to the Committee on June 14, 1999, pursuant to KRS 13A.290(6):
200 KAR 21:010 & E

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:
200 KAR 21:010 & E

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 regulation is reflected in the minutes of the June 23, 1999, meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

AMENDMENT TO 200 KAR 21:010 & E

Amend Section 2(2)(c) to insert the word "Provide" after "(c)."

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW
SUBCOMMITTEE
Meeting of July 1, 1999

The Education Assessment and Accountability Review Subcommittee met on Thursday, July 1, 1999 and submits this report:

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

703 KAR 5:020 -The Formula for Determining School Performance Classifications and School Rewards. Mrs. Helen Mountjoy, Chair, Kentucky Board of Education, Dr. Wilmer S. Cody, Commissioner of Education, and Dr. John Poggio, Member, National Technical Advisory Panel on Assessment and Accountability represented the Kentucky Board of Education. The administrative regulation establishes a system for identifying and rewarding successful schools and establishes appropriate consequences for schools failing to meet or exceed their assistance line.

Mrs. Mountjoy, Dr. Cody, and Dr. Poggio explained the regulation and responded to questions. Representative Moberly said that he thought the regulation was a good start, but agreed with Representative Treesch that the inclusion of a weight for the longitudinal comparison of students should be included as soon as possible. He also pointed out that neither the statute nor the regulation prohibits giving rewards to teachers if that decision is made by the school council, or the principal if there is no school council.

Mrs. Cindy Rausche testified that the administrative regulation did not meet the requirements of KRS Chapter 13A because it was based on the Department of Education's core content for assessment which has not been promulgated as an administrative regula-

tion. She also stated that she agreed with Representative Rasche's earlier comments about the need to include remediation at the post-secondary level as a noncognitive indicator.

Senator Karem said that there was a letter in the file from Senator Shaughnessy stating that he supported the regulation. The subcommittee accepted technical amendments to the administrative regulation as presented in a letter and an addendum to the letter from Mr. Kevin Noland, Department of Education Counsel. The subcommittee approved unanimously the administrative regulation as amended.

703 KAR 5:070 - Procedures for the Inclusion of Special Populations in the State Required Assessment and Accountability Programs. Dr. Cody stated that this administrative regulation incorporates by reference the document that establishes procedures for the inclusion of special student populations in the state-required assessment and accountability programs. Ms. Nancy LaCount described the process that was used to develop the document, and listed the groups of advocates and educators that were included in the process.

Ms. Carol Grissett and Ms. Carole Long testified that they believed the regulation was more restrictive than federal regulations. They were particularly concerned that the phrase "accommodations or modifications" excluded children who need both accommodations and modifications to participate in assessment and accountability programs. They prefer an earlier draft's language that said "accommodations and/or modifications." In response to their testimony concerning programs for exceptional children in the schools, Senator Karem said that he would request the chairmen of the Education Committee to address some of the issues raised by Ms. Grissett and Ms. Long that are broader than the regulation before the subcommittee.

Senator Kelley explained that in legal construction, "or" is used rather than "and/or", and it is just as inclusive since a person could meet one or both of the conditions and still be eligible for participation. He then said that there was one reference in the document incorporated by reference that needed to be corrected and made a motion to insert "or modifications" in SECTION 1(A.)(2.)(c.) after the word "accommodations." (Page 6 of 2/99 edition) The motion was approved.

The subcommittee adopted the administrative regulation without objection.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates B - 2

The Locator Index lists all administrative regulations published in VOLUME 26 of the Administrative Register from July, 1999 through June, 2000. 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 25 are those administrative regulations that were originally published in Volume 25 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1999 bound Volumes were published.

KRS Index B - 11

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 26 of the Administrative Register.

Subject Index B - 15

The Subject Index is a general index of administrative regulations published in VOLUME 26 of the Administrative Register, and is mainly broken down by agency.

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401 KAR 51:100	2712		415 KAR 1:114		
Withdrawn		7-8-99	Amended	1119	
401 KAR 51:110	2713		As Amended	2866	6-9-99
Withdrawn	7-8-99		415 KAR 1:120		
401 KAR 51:120	2717		Amended	1122	
Withdrawn		7-8-99	415 KAR 1:130		
401 KAR 51:130	2719		Amended	1128	
Withdrawn		7-8-99	As Amended	2868	6-9-99
401 KAR 51:140	2721		415 KAR 1:135	1274	
Withdrawn		7-8-99	As Amended	2870	6-9-99
401 KAR 57:002	2037		415 KAR 1:140	2052	
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418 KAR 1:030			703 KAR 5:020	2728	(See Volume 26)
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418 KAR 1:040			Amended	2602	6-7-99
Amended	2942		703 KAR 5:060	2243	
418 KAR 1:050			Amended	2603	6-7-99
Amended	2944		703 KAR 5:070	2731	
418 KAR 1:060			704 KAR 3:410		
Amended	2946		Amended	2200	
418 KAR 1:070			As Amended	2893	6-7-99
Amended	2948		704 KAR 3:420	2244	
501 KAR 6:020			As Amended	2896	6-7-99
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501 KAR 6:040			Amended	2953	(See Volume 26)
Amended	2669	7-14-99	707 KAR 1:150		
501 KAR 6:060			Amended	2207	
Amended	2670	7-14-99	As Amended	2897	6-7-99
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Amended	2950		Amended	2955	
501 KAR 6:090			Withdrawn		6-22-99
Amended	2437	6-16-99	785 KAR 1:010		
501 KAR 6:110			Amended	2673	(See Volume 26)
Amended	2438	6-16-99	802 KAR 1:010		
501 KAR 6:120			Amended	434	
Amended	2672	7-14-99	Amended	880	
501 KAR 6:140			803 KAR 2:307		
Amended	2440	6-16-99	Amended	2441	6-16-99
501 KAR 6:180			803 KAR 2:309		
Repealed	2478	6-16-99	Amended	2443	6-16-99
501 KAR 6:181	2478	6-16-99	803 KAR 2:310		
501 KAR 6:190	2054		Amended	2445	6-16-99
As Amended	2871	6-16-99	803 KAR 2:311		
501 KAR 6:200	2057		Amended	2447	6-16-99
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501 KAR 6:210	2058		Amended	2448	6-16-99
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502 KAR 12:010	2479	(See Volume 26)	Amended	2450	6-16-99
503 KAR 1:140	2723	(See Volume 26)	803 KAR 2:320		
503 KAR 3:040	2063		Amended	2451	6-16-99
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505 KAR 1:080	2985		Amended	2457	6-16-99
600 KAR 3:030	2235		803 KAR 2:403		
Amended	2598		Amended	2458	6-16-99
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601 KAR 14:010			Amended	2459	6-16-99
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603 KAR 4:035			Amended	2461	6-16-99
Amended	2195		803 KAR 2:425		
As Amended	2882	(See Volume 26)	Amended	2464	6-16-99
603 KAR 4:045	2237		803 KAR 2:500		
Amended	2599		Amended	2465	6-16-99
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603 KAR 4:050	1765		Amended	2675	(See Volume 26)
Amended	2419		807 KAR 5:007	2989	(See Volume 26)
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603 KAR 4:055	1767		Repealed	2899	6-16-99
Amended	2420		808 KAR 12:011	2480	
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603 KAR 7:080	1492		815 KAR 7:105		
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703 KAR 4:020			815 KAR 10:050		
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815 KAR 20:020			907 KAR 1:002		
Amended	2959	(See Volume 26)	Amended	1731	
815 KAR 20:030			907 KAR 1:019		
Amended	2467		Amended	1248	
As Amended	2902	5-26-99	Amended	1937	
815 KAR 20:120			907 KAR 1:021		
Amended	2961	(See Volume 26)	Amended	1252	
902 KAR 20:091			Amended	1940	
Amended	2469		907 KAR 1:780	2080	
Amended	2916	(See Volume 26)	Amended	2629	(See Volume 26)
902 KAR 20:140			907 KAR 3:035	2732	
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902 KAR 20:160			As Amended	1662	
Amended	2967		907 KAR 3:090	2993	(See Volume 26)
902 KAR 20:240			907 KAR 3:100	2993	(See Volume 26)
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902 KAR 55:115	723		Amended	355	
As Amended	1369		920 KAR 1:060	2740	(See Volume 26)
904 KAR 2:006			921 KAR 2:015		
Amended	1989		Amended	2679	(See Volume 26)
Amended	2605		922 KAR 5:070		
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904 KAR 2:016			922 KAR 7:061	2995	
Amended	1997		922 KAR 7:101	2996	
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Amended	2006				
Amended	2621				
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904 KAR 2:370					
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904 KAR 2:500	2075				
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905 KAR 1:180					
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200 KAR 2:006E	341	7-1-99	739 KAR 1:040E	351	6-22-99
502 KAR 31:020E	24	5-26-99	739 KAR 1:050E	352	6-22-99
704 KAR 20:210E	345	7-6-99	803 KAR 2:300E	26	6-15-99
725 KAR 1:071E	346	6-28-99	803 KAR 2:301E	27	6-15-99
739 KAR 1:010E	348	6-22-99	803 KAR 2:306E	29	6-15-99
739 KAR 1:020E	349	6-22-99	803 KAR 2:307E	31	6-15-99
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907 KAR 1:640E	361	7-2-99	200 KAR 21:010		
907 KAR 4:020E	364	6-23-99	As Amended	41	6-23-99
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11 KAR 5:001			As Amended	42	7-14-99
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11 KAR 12:010			200 KAR 30:020	271	
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11 KAR 12:060			200 KAR 30:060	275	
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11 KAR 12:070			201 KAR 9:041		
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20 KAR 1:040			201 KAR 9:084		
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20 KAR 1:070			201 KAR 9:330		
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101 KAR 2:037	260		Amended	423	
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401 KAR 5:026 Amended	130		401 KAR 59:550 Repealed by 401 KAR 57:019		7-14-99
401 KAR 5:029 Amended	141		401 KAR 59:555 Repealed by 401 KAR 57:019		7-14-99
401 KAR 5:030 Amended	145		401 KAR 59:570 Repealed by 401 KAR 57:019		7-14-99
401 KAR 5:031 Amended	150		401 KAR 59:575 Repealed by 401 KAR 57:019		7-14-99
401 KAR 47:110 Amended	73		401 KAR 59:580 Repealed by 401 KAR 57:019		7-14-99
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401 KAR 57:005 Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:705 Repealed by 401 KAR 57:019		7-14-99
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401 KAR 57:021 Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:740 Repealed by 401 KAR 57:019		7-14-99
401 KAR 57:025 Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:745 Repealed by 401 KAR 57:019		7-14-99
401 KAR 57:030 Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:750 Repealed by 401 KAR 57:019		7-14-99
401 KAR 57:035 Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:755 Repealed by 401 KAR 57:019		7-14-99
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401 KAR 59:450 Repealed by 401 KAR 57:019		7-14-99	401 KAR 60:160 Repealed by 401 KAR 57:019		7-14-99
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