

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 26, NUMBER 10
SATURDAY, APRIL 1, 2000

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REPRINT: (None)

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is **tentatively** scheduled to meet on April 11, 2000, at 10 a.m. in Room 149 of the Capitol Annex. See **tentative agenda** on pages 1757-1759 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

ADMINISTRATIVE REGISTER OF KENTUCKY

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**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA – April 11, 2000 at 10 a.m., Room 149, Capitol Annex**

PERSONNEL CABINET

Classified

101 KAR 2:102E. Classified leave administrative regulations. (Deferred from January)

Unclassified

101 KAR 3:015E. Leave administrative regulations for the unclassified service. (Deferred from January)

BOARDS

Board of Pharmacy

201 KAR 2:045. Technicians.

201 KAR 2:230. Special limited pharmacy – central refill pharmacy.

Board of Dentistry

201 KAR 8:006. Advertising of dental services.

201 KAR 8:130. X-rays by dental assistants.

201 KAR 8:220. Clinical examination.

201 KAR 8:277. Written and clinical application grade requirements.

201 KAR 8:286. Repeal of 201 KAR 8:285.

201 KAR 8:301. Repeal of 201 KAR 8:300.

201 KAR 8:381. Repeal of 201 KAR 8:380.

201 KAR 8:390. General anesthesia, deep sedation, and conscious sedation by dentists.

Board of Nursing

201 KAR 20:370. Applications for licensure and registration.

Board of Physical Therapy

201 KAR 22:135. Fees.

Board of Podiatry

201 KAR 25:031. Continuing education.

FINANCE AND ADMINISTRATION CABINET

Commercial Mobile Radio Service Emergency Telecommunications Board (Deferred from February)

202 KAR 6:010E. Definitions for 202 KAR Chapter 6.

202 KAR 6:020E. CMRS carrier cost recovery.

202 KAR 6:030E. Confidential and proprietary information.

202 KAR 6:040E. Dispute resolution.

202 KAR 6:050E. PSAP certification.

202 KAR 6:060E. PSAP Pro Rata Fund disbursement.

TOURISM DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

Game

301 KAR 2:221E. Waterfowl seasons and limits.

301 KAR 2:222E. Waterfowl hunting requirements. (Deferred from February)

301 KAR 2:226E. Youth waterfowl hunting season. (Deferred from February)

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Department for Environmental Protection

Division of Water

Water Quality

401 KAR 5:011E. Repeal of 401 KAR 5:009.

401 KAR 5:072E. Concentrated animal feeding operations.

Department for Surface Mining Reclamation and Enforcement

Special Performance Standards

405 KAR 20:060. Steep slopes.

JUSTICE CABINET

Department of Corrections

Jail Standards for Full-Service Facilities (Deferred from August)

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.

Restricted Custody Center (Deferred from August)

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.

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501 KAR 7:120. Admission; release.

501 KAR 7:140. Inmate rights.

Direct Supervision for Full-Service Jails (Deferred from August)

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 Juvenile Justice

Child Welfare

505 KAR 1:090E. Supervised placement revocation. (Deferred from February)

TRANSPORTATION CABINET

Department of Vehicle Regulation

Division of Motor Carriers

601 KAR 1:017. Repeal of 601 KAR 1:015 and 601 KAR 1:016.

601 KAR 1:018. Special overweight or overdimensional permits. (Amended After Hearing) (Deferred from February)

Department of Highways

Preconstruction

603 KAR 2:015. Prequalification for construction: certificate of eligibility and contract claims dispute.

Traffic

603 KAR 5:076. Repeal of 603 KAR 5:075 and 603 KAR 5:100, 603 KAR 5:105, 603 KAR 5:110, 603 KAR 5:112, 603 KAR 5:260, 603 KAR 5:270, 603 KAR 5:330.

WORKFORCE DEVELOPMENT CABINET

Department for Adult and Technical Education

Personnel System for Certified and Equivalent Employees

780 KAR 3:065E. Certified and equivalent service administrative regulations.

780 KAR 3:071E. Repeal of 780 KAR 3:070.

780 KAR 3:072E. Attendance, compensatory time, and leave for certified and equivalent service.

780 KAR 3:075E. Sick leave sharing procedures for certified and equivalent service.

780 KAR 3:100E. Employee actions.

Unclassified Personnel Administrative Regulations

780 KAR 6:005E. Unclassified service administrative regulations.

780 KAR 6:061E. Repeal of 780 KAR 6:060.

780 KAR 6:062E. Attendance, compensatory time and leave for unclassified service.

780 KAR 6:065E. Sick leave sharing procedures for unclassified service.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Mines and Minerals

Miner Training, Education and Certification

805 KAR 7:030. Annual retraining.

Kentucky Racing Commission

Thoroughbred Racing

810 KAR 1:060. Chemical dependency. (Public Hearing Held)

Department of Housings, Buildings and Construction

Division of Building Codes Enforcement

Kentucky Building Code

815 KAR 7:105. Kentucky Building Code/1997.

Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:010. Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.

815 KAR 8:020. Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

CABINET FOR HEALTH SERVICES

Department for Medicaid Services

Division of Long Term Care

Medicaid Services

907 KAR 1:023. Review and approval of selected therapies as ancillary services in nursing facilities. (Amended After Hearing) (Deferred from March)

907 KAR 1:025E. Payment for services provided by a cost-based nursing facility, a nursing facility with an all inclusive rate unit, and a hospital with federally-defined swing beds.

907 KAR 1:044E. Mental health center services. (Deferred from January)

907 KAR 1:065E. Payments for price-based nursing facility services.

907 KAR 1:070E. Homecare waiver services. (Deferred from March)

907 KAR 1:072E. Payments for homecare waiver services. (Deferred from March)

907 KAR 1:090E. Personal care assistance waiver services. (Deferred from March)

907 KAR 1:092E. Payments for personal care assistance waiver services. (Deferred from March)

Payment and Services

907 KAR 3:110 & E. Community mental health center substance abuse services.

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Kentucky Children's Health Insurance Program

907 KAR 4:030E. Kentucky Children's Health Insurance Program Phase III Title XXI of the Social Security Act. (Deferred from January)

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

K-Tap, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:006 & E. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).
921 KAR 2:015E. Supplemental programs for persons who are aged, blind, or have a disability. (Deferred from March)
921 KAR 2:016 & E. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).
921 KAR 2:017 & E. Kentucky Works supportive services.
921 KAR 2:370 & E. Technical requirements for Kentucky Works.
921 KAR 2:500. Family alternative diversion (FAD).

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

Food Stamp Program

921 KAR 3:020E. Financial requirements. (Deferred from March)
921 KAR 3:030E. Application process. (Deferred from March)

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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, MARCH 15, 2000

FINANCE AND ADMINISTRATION CABINET
Office of the Secretary

March 13, 2000

- (1) **200 KAR 5:350.** Transition procedures for universities that opt-out under KRS 164A.555 to 164A.630.
- (2) The Finance and Administration Cabinet intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 2000, 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: Karen Powell, General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, Phone: (502) 564-6660, FAX: (502) 564-9875.
- (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 CMRS Administrator at the above address.
- (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 45A045(2).
 - (b) The proposed regulation will provide transition procedures for universities that choose to exercise their options under KRS 164A.555 to 164A.630.
- (c) The necessity and function of the proposed administrative regulation is as follows: To provide an orderly transfer of accounts, property, and projects from the Finance and Administration Cabinet to the Universities that choose to exercise their options under KRS 164A.555 to 164A.630.
- (d) The benefit expected from this proposed administrative regulation is as follows: There will be an orderly administrative transfer of property, accounts, and projects with an appropriate audit trail.
- (e) This administrative regulation will be implemented by the Finance and Administration following the procedures outlined in the administrative regulation when transferring accounts, property, and projects to universities that choose to exercise their options under KRS 164A.555 to 164A.630.

KENTUCKY BOARD OF BARBERING

February 28, 2000

- (1) **201 KAR 14:180.** Fees.
- (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 April 24, 2000 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 at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 24, 2000 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to: 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 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 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 regulation.
 - (a) The statutory authority for the promulgation of the administrative regulation relating to the subject matter listed above is KRS 317.440(2).
 - (b) The administrative regulation the Kentucky Board of Barbering intends to promulgate will amend an existing administrative regulation. It will raise the fees charged for initial licensing of apprentices, barbers and shops which have not been raised in eight years. It will raise the fee for apprentice, barber and teacher examinations which have not been raised for eight years. It will raise the fee for all renewals which have not been raised for eight years.
 - (c) The necessity and function of the proposed administrative regulation is as follows: It will give the agency the funds needed to continue to operate.
 - (d) The benefit expected from this administrative regulation is: The agency will have the funds to operate for several more years.
 - (e) The administrative regulation will be implemented as follows: The fees would go into effect for the 2000-2001 licensing year which begins in July 2000.

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KENTUCKY BOARD OF LICENSURE FOR MARRIAGE AND FAMILY THERAPISTS

March 15, 2000

- (1) **201 KAR 32:030.** Fees.
- (2) The Kentucky Board of Licensure for Marriage and Family Therapists intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 25, 2000 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 25, 2000 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (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 an administrative body.
- (b) Persons who wish to file this request may obtain a request form from Nancy Black at the Division of Occupations and Professions at the address above.
- (7) Information relating to the proposed regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the fees is KRS 335.330, 335.320(4), and 335.340(1), (3).
 - (b) The administrative regulation the Board of Licensure for Marriage and Family Therapists intends to promulgate will establish licensure fees for marriage and family therapists and marriage and family therapist associates.
 - (c) The necessity and function of the proposed administrative regulation is to establish the fees for licensure and renewal for marriage and family therapists as provided for in KRS 335.330. Additional provisions are set forth to establish a late renewal fee, a waiver of the renewal fee, and a fee for marriage and family therapist associates.
 - (d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Licensure for Marriage and Family Therapists.
 - (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the definitions as outlined in the regulation.

March 15, 2000

- (1) **201 KAR 32:081.** Inactive licensure status.
- (2) The Kentucky Board of Licensure for Marriage and Family Therapists intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 25, 2000 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 25, 2000 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (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 an administrative body.
- (b) Persons who wish to file this request may obtain a request form from Nancy Black at the Division of Occupations and Professions at the address above.
- (7) Information relating to the proposed regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to inactive licensure status is KRS 335.320(9).
 - (b) The administrative regulation the Board of Licensure for Marriage and Family Therapists intends to promulgate will set forth the requirements for inactive licensure status.
 - (c) The necessity and function of the proposed administrative regulation is to set forth the conditions necessary to put a license in inactive status.
 - (d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Licensure for Marriage and Family Therapists.
 - (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the definitions as outlined in the regulation.

March 15, 2000

- (1) **201 KAR 32:091.** Reinstatement of expired license.
- (2) The Kentucky Board of Licensure for Marriage and Family Therapists intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 25, 2000 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, 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

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2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 25, 2000 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (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 an administrative body.
- (b) Persons who wish to file this request may obtain a request form from Nancy Black at the Division of Occupations and Professions at the address above.
- (7) Information relating to the proposed regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to reinstatement of an expired license is KRS 335.340(3).
- (b) The administrative regulation the Board of Licensure for Marriage and Family Therapists intends to promulgate will set forth the requirements for reinstating an expired license.
- (c) The necessity and function of the proposed administrative regulation is to set forth the conditions necessary to reinstate an expired license.
- (d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Licensure for Marriage and Family Therapists.
- (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the definitions as outlined in the regulation.

March 15, 2000

- (1) **201 KAR 32:101.** Reinstatement of revoked license.
- (2) The Kentucky Board of Licensure for Marriage and Family Therapists intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 25, 2000 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 25, 2000 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (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 an administrative body.
- (b) Persons who wish to file this request may obtain a request form from Nancy Black at the Division of Occupations and Professions at the address above.
- (7) Information relating to the proposed regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to reinstatement of an expired license is KRS 335.360.
- (b) The administrative regulation the Board of Licensure for Marriage and Family Therapists intends to promulgate will set forth the requirements for reinstating a revoked license.
- (c) The necessity and function of the proposed administrative regulation is to set forth the conditions necessary to reinstate a revoked license.
- (d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Licensure for Marriage and Family Therapists.
- (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the definitions as outlined in the regulation.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources

March 15, 2000

- (1) **301 KAR 1:015.** Boats and outboard motors; restrictions.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky De-

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partment of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation this administrative regulation is KRS 150.620 and 150.625.

(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will increase the boat length on designated waters.

(c) The necessity and function of the proposed administrative regulation is to meet the needs of the boating community.

(d) The benefit expected from the administrative regulation is the greater use of the waters of the Commonwealth.

(e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

March 15, 2000

(1) **301 KAR 1:130.** Live bait for personal use.

(2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.

(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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

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

(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will increase cast net size and allow the additional use of cast nets of designated waters.

(c) The necessity and function of the proposed administrative regulation is to allow for more angling opportunities.

(d) The benefits expected from the administrative regulation are greater opportunities for anglers and maintenance of healthy fisheries.

(e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

March 15, 2000

(1) **301 KAR 1:132.** Sale of live bait.

(2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.

(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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

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

(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will increase the control the use of live bait.

(c) The necessity and function of the proposed administrative regulation is to meet the effectively regulate the use of live bait.

(d) The benefit expected from the administrative regulation is the continued health of fisheries.

(e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Administration Division.

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March 15, 2000

- (1) **301 KAR 1:140.** Special commercial fishing permit.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1).
 - (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will increase the area required to be fished to qualify for a license.
 - (c) The necessity and function of the proposed administrative regulation is correct a mistake from an earlier filing of this regulation.
 - (d) The benefit expected from the administrative regulation is a better managed commercial fishery.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

March 15, 2000

- (1) **301 KAR 2:111.** Deer and turkey hunting on federal areas.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1).
 - (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will implement changes from federal agencies for areas they control, it will allow muzzleloaders in addition to shotgun for firearms deer hunting on West Kentucky National Guard Training Unit.
 - (c) The necessity and function of the proposed administrative regulation is to meet the changes by federal agencies on areas they control and allow administrative costs to our license agents.
 - (d) The benefit expected from the administrative regulation is the greater cooperation and more effective participation of agents.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Administration Division.

March 15, 2000

- (1) **301 KAR 2:144.** Fall wild turkey hunting.
- (2) The Department of Fish and Wildlife Resources 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 April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 December 21, 1998 the public hearing will be canceled.
- (5) (a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400 or FAX (502) 564-6508.
- (b) In a request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."

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- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1), 150.390(1) and 150.620.
- (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:144 as follows: It will authorize fall archery turkey hunting on the Grayson Lake WMA when not in conflict with quota deer hunt and when county is open to fall turkey hunting and it will open Daviess County WMA to statewide turkey hunting.
- (c) The necessity and function of the proposed administrative regulation is the protection and conservation of wild turkey populations.
- (d) The benefits expected from the administrative regulation are protection and conservation of Kentucky's wild turkey resource.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

March 15, 2000

- (1) **301 KAR 2:172.** Deer hunting seasons and requirements.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
 - 1. "I agree to attend the public hearing"; or
 - 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1).
- (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will implement a quality deer management plan, including increased deer harvest in certain zones.
- (c) The necessity and function of the proposed administrative regulation is to improve the quality of the deer herd in Kentucky.
- (d) The benefits expected from the administrative regulation are greater hunter opportunity, providing better hunting experience and bringing the antlerless harvest in line with existing deer populations.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

March 15, 2000

- (1) **301 KAR 2:174.** Deer hunting zones.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
 - 1. "I agree to attend the public hearing"; or
 - 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1).
- (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will alter the deer zones in Kentucky to create a total of four deer zones in the state based on the population of deer in those areas.
- (c) The necessity and function of the proposed administrative regulation is to better manage the deer herd in Kentucky.
- (d) The benefits expected from the administrative regulation are the increased hunter opportunity and bringing the antlerless deer harvest in line with existing deer populations.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

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March 15, 2000

- (1) **301 KAR 2:176.** Deer control tags.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.105.
 - (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will modify the process for obtaining deer control tags and increase the number of deer control tags a landowner can issue from 4 to 5.
 - (c) The necessity and function of the proposed administrative regulation is to control the deer herd of Kentucky.
 - (d) The benefit expected from the administrative regulation is the better management of deer in Kentucky.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

March 15, 2000

- (1) **301 KAR 2:178.** Deer hunting on wildlife management areas.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1) and 150.620.
 - (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will increase the bag limits on WMA's, modify how preference points are granted to hunters, increase deer quality.
 - (c) The necessity and function of the proposed administrative regulation is to increase the deer quality and meet the demands of more hunter opportunity.
 - (d) The benefits expected from the administrative regulation are greater hunter opportunity and better deer management.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

March 15, 2000

- (1) **301 KAR 2:179.** State park deer hunts.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the 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."

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- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 148.029(5), 150.105 and 150.025(1).
- (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will change 1 quota hunt to an archery-only hunt, alter the days of Grayson Lake SP youth hunt and allow either-sex hunting during the disabled hunt at Taylorsville Lake SP.
- (c) The necessity and function of the proposed administrative regulation is to increase the deer quality and meet the demands of better hunter opportunity.
- (d) The benefits expected from the administrative regulation are greater hunter opportunity and better deer management.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Law Enforcement Division.

March 15, 2000

- (1) **301 KAR 4:200.** Cyprus AMAX and Robinson Forest Wildlife Management Areas use requirements and restrictions.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation an administrative regulation governing license and permit sales is KRS 150.195.
- (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will move the fee structure for permits to Robinson Forest/Cyprus AMAX to 301 KAR 3:022, where the remainder of the fee provisions for the department are.
- (c) The necessity and function of the proposed administrative regulation is to consolidate all fee related regulations for the department.
- (d) The benefit expected from the administrative regulation is increased clarity in agency's regulations.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be administered by the Administration Division.

March 15, 2000

- (1) **301 KAR 5:030.** Purchasing licenses and obtaining replacement licenses.
- (2) The Department of Fish and Wildlife Resources intends to amend an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 miles west of Frankfort on U.S. 60.
- (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 is not received from the required number of people at least 10 days prior to April 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400, FAX (502) 564-6508.
- (b) On the request for a public hearing, a person shall state:
1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation an administrative regulation governing license and permit sales is KRS 150.195.
- (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will revise the process of obtaining duplicate licenses.
- (c) The necessity and function of the proposed administrative regulation is to meet the administrative costs to our agency for issuing duplicate licenses.
- (d) The benefit expected from the administrative regulation is to stop the loss of revenue by not recovering the cost associated with this activity.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be administered by the Administration Division.

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**JUSTICE CABINET
Department of Corrections**

March 14, 2000

- (1) **501 KAR 6:070**, Kentucky Correctional Institution for Women.
- (2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 21, 2000, 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, 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40602-2400, 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 6:070, as follows:
 1. Inmate Canteen and Staff Canteen (KCIW 02-05-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures, LRC language and Third Edition ACA Standards.
 2. Special Management Unit (KCIW 10-01-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures and Third Edition ACA Standards. The attachments shall be deleted.
 3. Inmate Correspondence (KCIW 16-01-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures and LRC guidelines. The attachments shall be deleted.
 4. Inmate Access to Telephones (KCIW 16-02-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures and LRC guidelines. The attachments shall be deleted.
 5. Inmate Visiting Regulations (KCIW 16-03-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures and LRC guidelines.
 6. Inmate Indigent and Low Income Fund (KCIW 16-04-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures and LRC guidelines.
 7. Inmate Packages (KCIW 16-05-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures and LRC guidelines. The attachments shall be deleted.
- (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 Correctional Institution for Women 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.

Department of Criminal Justice Training

March 15, 2000

- (1) **503 KAR 3:030**. Training charges.
- (2) The Justice Cabinet, Department of Criminal Justice Training, intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 2000, at 9 a.m., in Room 314, Funderburk Building, Richmond, Kentucky 40475-3137.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 21, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, General Counsel, Department of Criminal Justice Training, Funderburk Building, Richmond, Kentucky 40475-3137; Phone (606) 622-5897; FAX (606) 622-3162.
- (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 form from the Department of Criminal Justice Training 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 Chapter 13A and 15A.160.

(b) The administrative regulation that the Department of Criminal Justice Training intends to promulgate will amend 503 KAR 3:030, Training charges. It will:

1. Amend the list of agencies and officers who are eligible to receive free tuition, housing and meals for basic and in-service training;
2. Provide a procedure for the commissioner to waive all or part of charges for training, or provide for incremental payments, in situations of undue financial hardship or in reciprocation for services rendered to the department;
3. Revise Department of Criminal Justice Training Form 60;
4. Amend the regulation as it relates to payment of charges upon failure of a course;
5. Amend the fees for housing and meals, and the manner in which charges for meals may be utilized by recruits;
6. Revise the procedures related to agreements for, and payment of training charges when required.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.160 authorizes the Secretary of the Justice Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A. KRS 15.340 authorizes the Department of Criminal Justice Training to determine to which agencies and officers it will offer training, and which must bear any or all costs of training.

(d) This administrative regulation, which has not been amended since May 1990, updates operating procedures at the Department of Criminal Justice Training to comply with KRS Chapter 13A, peace officer certification and Kentucky Law Enforcement Foundation Program Fund Requirements, and to reflect current operating procedures and address fiscal considerations.

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

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

TRANSPORTATION CABINET

March 15, 2000

(1) **601 KAR 2:020**, Driver's privacy protection.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation regarding circumstances and conditions governing the distribution or sale of personal information about motor vehicle operators and owners.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 25, 2000, 10 a.m., local prevailing time, at 501 High Street, 10th Floor General Counsel Conference Room, State Office Building, Frankfort, Kentucky 40622.

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

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, 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 April 25, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should contact Charles Harman at: phone 502.564.7650, fax 502.564.5238, and e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to KRS 61.870 through 61.884, 187.310, and 18 USC Subsection 2721 et seq.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend an existing regulation. It will establish circumstances and conditions governing the distribution or sale of personal information about motor vehicle operators and owners.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 18 USC Subsection 2721 et seq. mandates the information which can and cannot be included in information sold or otherwise distributed about motor vehicle operators or owners.

(d) The benefits expected from the administrative regulation are to establish policies and procedures for the distribution of information about motor vehicle owners and operators.

(e) The administrative regulation will be implemented as follows: By the Transportation Cabinet in accordance with KRS Chapter 13A.

(8) Any person with a disability for which the Transportation Cabinet needs to make an accommodation in order for the person to participate in the public comment hearing should notify Charles Harman at the above-mentioned address no later than 10 days prior to the scheduled hearing date.

CABINET FOR WORKFORCE DEVELOPMENT Department for Technical Education

March 8, 2000

(1) **780 KAR 1:010**, 2001-2004 Program Plan.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.
- (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 Cabinet for Workforce Development at the address listed above.
- (7) Information relating to the proposed amendment to the administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to program plan is KRS 151B.025, 151B.100, 151B.145.
- (b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 1:010. It will adopt the 2001-2004 Kentucky State Plan for Vocational Technical Education and amend the address of the Department for Technical Education.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to adopt the 2001-2004 Kentucky State Plan for Vocational Technical Education to receive federal funds under PL 101-392.
- (d) The benefits expected from administrative regulation are: The 2001-2004 Kentucky State Program Plan for Vocational Technical Education will be adopted.
- (e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

- (1) **780 KAR 2:010**, Administration of vocational-technical education schools.
- (2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.
- (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 Cabinet for Workforce Development at the address listed above.
- (7) Information relating to the proposed amendment to the administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to administration of vocational-technical education schools is KRS 151B.025, 151B.030, 151B.150.
- (b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 2:010 to reflect the reorganization of state-operated vocational technical schools, which are no longer operated through regions. It will also reflect the fact that the Department for Technical Education no longer operates postsecondary programs.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to reflect the reorganization of administration of state-operated vocational technology schools.
- (d) The benefits expected from administrative regulation are: The regulation will provide current information on administration of area technology centers.
- (e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

- (1) **780 KAR 2:011**, Repeal of administrative regulations in 780 KAR Chapter 2.
- (2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

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(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to vocational-technical education programs is KRS 151B.025, 151B.110, 151B.150.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will not amend an existing regulation. It will repeal administrative regulations for postsecondary institutions. The authority to promulgate administrative regulations for these entities has been transferred to the Kentucky Community and Technical College System.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to reflect the fact that authority to administer postsecondary technical education programs has been transferred from the Department for Technical Education to the Kentucky Community and Technical College System.

(d) The benefits expected from administrative regulation are: The regulation will reflect reorganization of postsecondary technical education programs.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 2:030**, Steering and advisory committees for area technology centers primarily serving secondary students.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to steering committees for area technology centers is KRS 151B.025.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 2:030. It will change the designation of "Kentucky TECH schools" to "area technology centers," and will accurately reflect current statutory law concerning the Commissioner of the Department for Technical Education's authority to develop and adopt policies and administrative regulations.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to coincide with Kentucky statutes.

(d) The benefits expected from administrative regulation are: The regulation will reflect current statutory law.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 2:040**, Live work projects.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

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

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

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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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to live work projects is KRS 151B.025, 151B.110, and 151B.150.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 2:040. It will reflect the authority of the Commissioner of the Department for Technical Education to develop and adopt policies and administrative regulations for live work projects.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to accurately reflect the authority of the Commissioner of the Department for Technical Education.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 2:060**, Discipline of students.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to discipline of students is KRS 151B.110 and 151B.150.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 2:060 by reflecting the Commissioner of the Department for Technical Education's authority to administer the state's vocational education program, deletes references to postsecondary students, and makes minor grammatical changes.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary because responsibility for administering postsecondary technical programs has been transferred to the Kentucky Community and Technical College System.

(d) The benefits expected from administrative regulation are: The regulation will accurately reflect the responsibilities of the Department for Technical Education.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 2:110**, Student medical and accident insurance.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to student medical and accident insurance is KRS 151B.175.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 2:110. It will reflect the authority of the Commissioner of the Department for Technical Education to implement the student insurance program.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to accurately reflect the commissioner's authority to implement the student insurance program.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 2:140**, Tuition and fees.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to tuition and fees is KRS 151B.150 and 151B.165.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 2:140. It will reflect the authority of the Commissioner of the Department for Technical Education to set tuition and fees, and will omit references to postsecondary programs, which have been transferred to the Kentucky Community and Technical College System.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to conform with the transfer of administration of postsecondary programs from the Department for Technical Education to the Kentucky Community and Technical College System.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 4:010**, General standards.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to general standards for vocational-technical education programs is KRS 151B.025 and 151B.145.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 4:010 by reflecting the Commissioner of the Department for Technical Education's authority to administer secondary vocational-technical programs, and omits references to postsecondary programs, which were transferred to the jurisdiction of the Kentucky Community and Technical College System.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to provide

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accurately reflect the authority of the Commissioner of the Department for Technical Education.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 4:011**, Repeal of administrative regulations in 780 KAR Chapter 4.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to vocational-technical education programs is KRS 151B.025.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will not amend an existing regulation. It will repeal the following amendments: 780 KAR 4:020, Diploma Requirements for postsecondary students; 780 KAR 4:040, Standards for postsecondary programs; and 780 KAR 4:060, Kentucky TECH guarantee.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary because the authority to promulgate administrative regulations for postsecondary institutions has been transferred to the Kentucky Community and Technical College System.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 4:050**, Certificate requirements for Kentucky TECH students.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to certificate requirements for Kentucky TECH schools is KRS 151B.095, 151B.110, and 151B.150.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 4:050 by correctly stating the authority of the Commissioner of the Department for Technical Education to administer the state's vocational-technical educational programs.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to correctly state the authority of the commissioner to administer the vocational-technical educational programs in the Department for Technical Education.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

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March 8, 2000

- (1) **780 KAR 5:011**, Repeal of administrative regulations in 780 KAR Chapter 5.
- (2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.
- (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 Cabinet for Workforce Development at the address listed above.
- (7) Information relating to the proposed amendment to the administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to vocational-technical education programs is KRS 151B.025.
- (b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will not amend an existing regulation. It will repeal the following administrative regulations: 780 KAR Chapter 5 - Veterans Approval Agency.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary because the Veterans Approval Agency within the Department for Technical Education no longer exists.
- (d) The benefits expected from administrative regulation are: See answer to (c) above.
- (e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

- (1) **780 KAR 7:010**, Definitions.
- (2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.
- (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 Cabinet for Workforce Development at the address listed above.
- (7) Information relating to the proposed amendment to the administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to definitions pertinent to vocational-technical education facilities and equipment is KRS 151B.025, 151B.110, 151B.150.
- (b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 7:010. It will delete references to "corrections education center" and "regional technology center." It will also amend the definitions of "equipment" and "supplies."
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to conform to reorganization of the Department for Technical Education resulting from the transfer of postsecondary technical education programs to the Kentucky Community and Technical Colleges System.
- (d) The benefits expected from administrative regulation are: See answer to (c) above.
- (e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

- (1) **780 KAR 7:011**, Repeal of administrative regulations in 780 KAR Chapter 7.
- (2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:

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1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.
- (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 Cabinet for Workforce Development at the address listed above.
- (7) Information relating to the proposed amendment to the administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to regional technology center facility standards and corrections education center facility standards is KRS 151B.110 and 151B.150.
- (b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will not amend an existing regulation. It will repeal 780 KAR 7:030, "Regional technology center facility standards," and 780 KAR 7:032, "Corrections education center facility standards." The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary because the authority to promulgate regulations for postsecondary institutions was transferred to the Kentucky Community and Technical College System on July 1, 1998.
- (d) The benefits expected from administrative regulation are: See answer to (c) above.
- (e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

- (1) **780 KAR 7:020**, Area technology center facility standards.
- (2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.
- (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 Cabinet for Workforce Development at the address listed above.
- (7) Information relating to the proposed amendment to the administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to area technology center facility standards is KRS 151B.025, 151B.110, and 151B.150.
- (b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 7:020 by clarifying that area technology centers shall provide vocational preparation components of educational programs for secondary students, and that area technology centers may be available to offer programs for postsecondary students on a need basis.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to conform to the reorganization of the Department for Technical Education resulting from the transfer of postsecondary vocational programs to the Kentucky Community and Technical College System on July 1, 1998.
- (d) The benefits expected from administrative regulation are: See answer to (c) above.
- (e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

- (1) **780 KAR 7:040**, Facility maintenance.
- (2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-

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6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to responsibilities relative to maintenance of vocational-technical education facilities is KRS 151B.145 and 151B.150.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 7:040 by deleting references to maintenance of facilities owned by the state.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to because the state does not own vocational-technical educational facilities.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 7:060**, Equipment inventory.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to equipment inventory is KRS 151B.110 and 151B.150.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will amend 780 KAR 7:060 by replacing references to the Office of Kentucky TECH System with references to "area technology centers," and by amending the value of equipment that must be maintained on an inventory.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary because the Office of Kentucky TECH System no longer exists.

(d) The benefits expected from administrative regulation are: See answer to (c) above."

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

March 8, 2000

(1) **780 KAR 9:011**, Repeal of an administrative regulation in 780 KAR Chapter 9.

(2) The Cabinet for Workforce Development 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 amendment to the administrative regulation has been scheduled for April 28, 2000 at 1 p.m. in the Cabinet for Workforce Development Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 28, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sherry R. Deatrick, General Counsel, Kentucky Cabinet for Workforce Development, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-9990, e-mail: SherryR.Deatrick@mail.state.ky.us.

(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 Cabinet for Workforce Development at the address listed above.

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

(a) The statutory authority for the promulgation of an administrative regulation relating to high school equivalency diplomas is KRS 151B.110 and 151B.125.

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will not amend an existing regulation. It will repeal 780 KAR 9:020: "High school equivalency diploma."

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to because administration of high school equivalency diplomas is not performed by the Department for Technical Education.

(d) The benefits expected from administrative regulation are: See answer to (c) above.

(e) The Department for Technical Education within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

**PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance**

March 14, 2000

(1) **806 KAR 12:092.** Unfair life and health insurance claims settlement practices.

(2) The Department of Insurance intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 27, 2000, at 10:30 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 a public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to April 27, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Shaun T. Orme, 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 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 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 this administrative regulation is KRS 304.2-110, 304.32-250 and 304.38-150.

(b) The administrative regulation that the department intends to amend will amend an existing regulation. It will clarify when an insurer must provide the insured an explanation of benefits pursuant to 806 KAR 12:092, Section 3(5).

(c) The necessity and function of the proposed amendment to the administrative regulation is as follows: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative regulations for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.32-250 provides that the commissioner may promulgate reasonable administrative regulations which he deems necessary for the proper administration of KRS 304.32. KRS 304.38-150 provides that the Commissioner of Insurance may promulgate reasonable administrative regulations which he deems necessary for the proper administration of KRS 304.38. This amendment clarifies when an insured must be given an explanation of benefits by an insurer concerning claim payments made pursuant to an insurance policy.

(d) The benefits expected from the amendment to the administrative regulation are as follows: This amendment to the administrative regulation will clarify that an insurer must give an insured an explanation of benefits only when there is financial responsibility for claim payment on the part of the insured. This amendment will reduce the amount of unnecessary information sent to an insured.

(e) The administrative regulation will be implemented as follows: Insurers that issue insurance coverage are required to pay claims made on the policy pursuant to the terms of the policy. When there is financial responsibility for the insured after the insurer has made its required claims payment, the insurer will have to issue an explanation of benefits to an insured, notifying the insured of the financial responsibility.

March 14, 2000

(1) **806 KAR 17:240.** Health insurance data collection.

(2) The Department of Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 26, 2000, at 1 p.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 a public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 26, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Shaun T. Orme, 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 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 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 this administrative regulation is KRS 304.17A-330.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will

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establish the format for reporting the to the commissioner the information required pursuant to KRS 304.17A-330.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.17A-330 authorizes the commissioner to prescribe the format for insurers and self-insured, employer-organized associations to report their insurance experience in Kentucky for the preceding calendar year. This administrative regulation is necessary in order to standardize the reports required pursuant to KRS 304.17A-330.

(d) The benefits expected from the administrative regulation are as follows: By prescribing the reporting format, the reports required pursuant to KRS 304.17A-330 will be uniform and more manageable for the department.

(e) The administrative regulation will be implemented as follows: All insurers that write health insurance in Kentucky and all employer-organized associations that self-insure will be required to comply with the format prescribed by this administrative regulation to report their insurance experience in Kentucky as required by KRS 304.17A-330.

March 15, 2000

(1) **806 KAR 17:250.** Notification requirements for drug benefits.

(2) The Department of Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 26, 2000, at 3:30 p.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 a public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 26, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Shaun T. Orme, 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 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 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 this administrative regulation is KRS 304.17A-565 and 304.17A-535.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will establish notice requirements for a managed care plan when changes are made to the managed care plan's drug formulary. The notice requirements established by this administrative regulation will clarify the responsibilities of a managed care plan.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.17A-565 requires the commissioner to promulgate administrative regulations necessary to carry out the provisions of KRS 304.17A-500 through 304.17A-570. KRS 304.17A-535 requires a managed care plan to include a drug utilization review program. It is necessary for the Commissioner of Insurance to establish notice requirements for a managed care plan when changes are made to the managed care plan's drug formulary as a method of consumer protection.

(d) The benefits expected from the administrative regulation are as follows: The regulation will clarify that a managed care plan must provide notice to enrollees when changes are made to the managed care plan's drug formulary. This will provide the enrollee with advance notice of changes in a drug formulary.

(e) The administrative regulation will be implemented as follows: A managed care plan shall be required to provide notice to an enrollee regarding changes to the managed care plan's drug formulary.

March 14, 2000

(1) **806 KAR 18:030.** Group health insurance coordination of benefits.

(2) The Department of Insurance intends to promulgate an amendment to the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 26, 2000, 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 a public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to April 26, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Shaun T. Orme, 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 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 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 this administrative regulation is KRS 304.2-110, 304.17A-250(9) and 304.18-085.

(b) The administrative regulation that the department intends to promulgate will amend an existing regulation. It will adopt new standards insurers must meet when coordinating payment of health care benefits with other insurers.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17A-250(9) provides that all health benefit plans shall coordinate benefits in accordance with the guidelines for

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coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085. KRS 304.18-085 provides that the commissioner shall prescribe guidelines for coordination of benefits by group health insurance policies.

(d) The benefits expected from the amendment to the administrative regulation are as follows: This amendment to the administrative regulation will give insurers guidance on how to coordinate payment of health care claims payments with other insurers when both insurers cover the insured. The present administrative regulation only offers guidance for coordination of health claims payments among group health policies. However, current law also requires coordination of health claims payments among individual and group policies. The amendment will offer guidance on coordinating health claims payments among individual and group policies.

(e) The administrative regulation will be implemented as follows: Insurers that offer health benefit plans in Kentucky are required to coordinate health claims payments for both individual and group policies. The insurers will be given guidance on how to coordinate the health claims payments for both individual and group health benefit plans when more than 1 health benefit plan covers an insured.

March 14, 2000

(1) **806 KAR 38:100.** Risk-based capital for health maintenance organizations.

(2) The Department of Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 21, 2000 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 a public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to April 21, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Frank L. Dempsey, 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 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 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 this administrative regulation is KRS 304.38-150.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will require health maintenance organizations to report their risk-based capital levels to the Commissioner of Insurance. In addition, the administrative regulation will define certain risk-based capital action level events and establish requirements for a health maintenance organization that meets the criteria for an action level event. Lastly, this administrative regulation establishes the administrative action required by the commissioner in the event that a health maintenance organization meets the criteria for any particular action level event.

(c) The necessity and function of the proposed administrative regulation are as follows: In order to determine the financial strength of a health maintenance organization, the administrative regulation is necessary in that it establishes risk-based capital requirements exclusively for health maintenance organizations. Currently, life and health and property and casualty carriers are subject to risk-based capital requirements. Pursuant to the capital and surplus section of the accreditation manual, states accredited by the National Association of Insurance Commissioners are required to implement risk-based capital or other similar provisions. Since Kentucky is a state that is accredited by the NAIC, it is necessary to implement risk-based capital requirements for health maintenance organizations.

(d) The benefits expected from the administrative regulation are as follows: The risk-based capital report required by this administrative regulation for each health maintenance organization will assist the department in evaluating the financial strength of a health maintenance organization and identifying a health maintenance organization that may be in hazardous financial condition. In addition, this administrative regulation establishes uniform guidelines for administrative action in the event that a health maintenance organization meets the criteria for a risk-based capital action level event.

(e) The administrative regulation will be implemented as follows: Each health maintenance organization will be required to prepare and submit to the commissioner a report of its risk-based capital levels. The report will be required at least on an annual basis and will cover risk-based capital levels as of the end of the calendar year just ended. The commissioner or his designee will review the reports submitted pursuant to this administrative regulation to determine if the risk-based capital levels of the health maintenance organization are appropriate or if administrative action regarding the risk-based capital levels is necessary.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction

March 6, 2000

(1) **815 KAR 20:020.** Parts or materials list.

(2) The Department of Housing, Buildings and Construction intends to amend the 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 10 a.m., local time, on Tuesday, April 25, 2000, in the department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, 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 April 25, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-3833.

(b) On a request for 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's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 318.130.

(b) The department intends to amend Section 5 of this administrative regulation by including 2 new products approved by the State Plumbing Code Committee:

1. HubSett In Line Test Coupling: PVC and ABS test couplings produced by HubSett Manufacturing, Inc. for testing soil waste and vent systems; and

2. Viega/Ridgid ProPress System: Copper press fittings for joining copper water tubing and using an elastomeric o-ring that forms the joint. The fitting shall be made by pressing the socket joint under pressure in accordance with the manufacturer's installation requirements.

(c) The necessity and function of the proposed administrative regulation is as follows: The function of this administrative regulation is to allow the department to promptly permit the use of new parts or materials.

(d) The benefits expected from this administrative regulation are: To allow the use of newly approved products.

(e) This administrative regulation will be implemented by state plumbing inspectors.

March, 6, 2000

(1) **815 KAR 20:130.** House sewers and storm water piping; methods of installation.

(2) The Department of Housing, Buildings and Construction intends to amend the 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 10 a.m., local time, on Tuesday, April 25, 2000, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 25, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

(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's general counsel 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 318.130.

(b) The department intends to amend Section 9 of 815 KAR 20:130 to allow the use of the same fittings as used in soil, waste and vent systems to be used on joining sewers.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation identifies the materials that may be used in the construction of house sewers, storm water piping as well as the methods of installation. This amendment will recognize the standard the manufacturer recommends.

(d) The benefits expected from administrative regulation are: Making the Code more consistent by allowing the same fittings to be used.

(e) This administrative regulation will be implemented by the Division of Plumbing through each county area inspector.

March 6, 2000

(1) **815 KAR 20:150.** Inspection and tests.

(2) The Department of Housing, Buildings and Construction (Division of Plumbing) intends to amend the 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 10 a.m., local time, on Tuesday, April 25, 2000, in the department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, 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 April 25, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-3833.

(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's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.040(1), 318.130.

(b) The department intends to amend Section 4(6) of 815 KAR 20:150 to provide adequate means of cleaning out sewers using existing

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equipment. Equipment used to clean out sewer lines is usually 100 feet in length. By installing cleanouts at distances not to exceed 150 feet, it will be much more efficient to reach them.

(c) The necessity and function of the proposed administrative regulation is as follows: 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 relates to tests and inspections that are necessary in order to cause compliance with other administrative regulations of this code.

(d) The benefits expected from this administrative regulation are: To have the ability of cleaning out sewer lines without the necessity of digging the up.

(e) This administrative regulation will be implemented by the Division of Plumbing through county inspectors.

March 13, 2000

(1) **815 KAR 35:015**, Certification of electrical inspectors.

(2) The Department of Housing, Buildings and Construction 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 10 a.m., local time, on Tuesday, April 25, 2000, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

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

1. It is requested, in writing, by at least 1 person, 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 April 25, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-3833.

(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's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 227.489 and 13A.100.

(b) The department intends to amend 815 KAR 35:015, Section 5(3) by amending the passing grade for the examination from 70% to a grade of 75.

(c) The necessity and function of the proposed administrative regulation is as follows: The Commissioner of the Department of Housing, Buildings and Construction is required by KRS 227.489 to certify electrical inspectors based on standards of the National Electrical Code. Exterior Testing Agency has recently begun administering the electrical inspector examination and their standard passing grade is 75. Need the clarification between agency regulation and testing agency.

(d) The benefits expected from this administrative regulation are: Applicants passing by a higher standard; more qualified individual.

(e) This administrative regulation will be implemented by the Division of Fire Prevention; Electrical Section Inspectors.

CABINET FOR HEALTH SERVICES Department for Public Health

March 15, 2000

(1) **902 KAR 13:010**, Definitions for 902 KAR Chapter 13.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:010 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:010, Definitions for 902 Chapter 13 relating to training, certification, and recertification of emergency medical technicians and make minor policy clarifications, and

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drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth uniform definition of terms that shall be used in administrative regulations promulgated by the cabinet relating to emergency medical technicians.

(d) The benefits expected from administrative regulation are to establish uniform definitions relating to training, certification and recertification of emergency medical technicians.

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

March 15, 2000

(1) **902 KAR 13:030, Fees**

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:030 is KRS 211.964, 211.966 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:030, Fees, to revise the fee schedule and charges related to testing and issuance of certificates, and for the renewal of certificates for emergency medical technicians. In addition, the administrative regulation establishes fees for agencies authorized to train and test emergency medical technicians and makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the fee schedule and charges related to the approval of organizations to become EMS training agencies or EMS testing agencies and individuals applying for certification or recertification as EMT-first responders, EMT-first responder instructors, EMT-basics, EMT-basic instructors, and EMT-instructor trainers.

(d) The benefits expected from administrative regulation are to more accurately reflect the administrative costs to the cabinet for training, testing, and issuance of certificates for emergency medical technicians.

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

March 15, 2000

(1) **902 KAR 13:050, Requirements for examination, certification and recertification of the emergency medical technician-basic.**

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 ac-

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cordance 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 902 KAR 13:050 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:050, Requirements for examination, certification and recertification of the emergency medical technician-basic to establish standards for applicants, testing, certification and recertification of emergency medical technicians. In addition the administrative regulation will be amended to comply with the requirements of HB 312 passed by the 2000 Kentucky General Assembly and makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes standards for applicants, testing, certification and recertification of emergency medical technicians.

(d) The benefits expected from administrative regulation are to establish uniform standards for applicants, testing, certification and recertification of emergency medical technicians.

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

March 15, 2000

(1) **902 KAR 13:070**, Emergency medical technician-basic instructors and EMT-instructor trainers.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:070 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:070, Emergency medical technician-basic instructors and EMT-instructor trainers to establish standards for the training, certification and recertification of EMT-instructors and establish an evaluation process for approving new instructors. In addition, makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for training, certification, and recertification of EMT-instructors.

(d) The benefits expected from administrative regulation are to establish uniform requirements that all persons shall follow in order to be certified as an EMT-instructor.

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

March 15, 2000

(1) **902 KAR 13:080**, Emergency medical technician-basic authorized procedures.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 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 Administrative Regulation Coordinator, Department for Public Health, Health Services 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 902 KAR 13:080 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:080, Emergency medical technician-basic authorized procedures to establish authorized procedures under the 1994 National Standard Curriculum which EMT-Bs may perform; and identify requirements for pilot programs to test specialized procedures; and permit EMT-Bs to perform certain procedures under the direction of a medical director which EMT-Bs have not been previously authorized to perform. In addition, makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for procedures which an EMT-B shall be authorized to perform.

(d) The benefits expected from administrative regulation are to establish uniform procedures under the 1994 National Standard Curriculum which an EMT-B may perform; authorize pilot programs to test specialized procedures; and permit additional procedures to be performed by an EMT-B under the direction of a medical director.

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

March 15, 2000

(1) **902 KAR 13:090**, Disciplinary actions.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:090 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:090, Disciplinary actions, to establish criteria, guidelines and procedures for disciplinary action which the cabinet may take to deny, suspend, revoke, probate, or restrict a certificate of an EMT-B, EMT-first responder, EMT instructor, or EMT-first responder instructor and makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for taking disciplinary action against the certification of an EMT-B, EMT-first responder, EMT instructor or EMT-first responder instructor.

(d) The benefits expected from administrative regulation are to establish uniform guidelines which the cabinet shall utilize in order to take disciplinary action against the certification of all levels of emergency medical technicians.

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

March 15, 2000

(1) **902 KAR 13:110**, Emergency medical technician-first responder training, examination, and certification.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation

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tion Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:110 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:110, Emergency medical technician-first responder training, examination, and certification to adopt the requirements of the 1995 Department of Transportation (DOT) National Standard Curriculum; increase the number of hours in the current program from 40 to 47.50 which will allow hours for additional training in Acquired Immune Deficiency Syndrome (AIDS) as required by KRS 214.610, oxygen therapy and airway adjuncts, automated external defibrillation, cervical collar application, proper use of sphygmomanometer and stethoscope for blood pressure monitoring, and competency in cardiopulmonary resuscitation. In addition, makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for the education, training, testing, and certification and recertification of emergency medical technician-first responders (EMT-first responders).

(d) The benefits expected from administrative regulation are to upgrade the EMT-first responder program in order for Kentucky to meet and exceed the criteria established by the DOT in the EMT-first responder 1995 National Curriculum.

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

March 15, 2000

(1) **902 KAR 13:160**, Emergency medical services educational institutions and emergency medical services testing agencies.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:160 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will create 902 KAR 13:160, Emergency medical services educational institutions and emergency medical services testing agencies to establish standards for an agency to be certified as an EMS educational institution or an EMS testing agency to conduct training or testing for persons who wish to become certified as an emergency medical technician-basic (EMT-B), or EMT-first responder. In addition, makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for training agencies to become certified as an EMS educational institution.

(d) The benefits expected from administrative regulation are to develop uniform requirements for certification of EMS educational institutions including performance standards for continued certification.

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

March 15, 2000

(1) **902 KAR 13:170**, Emergency medical technician-basic course requirements.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000

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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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:170 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will create 902 KAR 13:170, Emergency medical technician-basic course requirements to establish standards for the training course which an EMS educational institution shall utilize for emergency medical technician-basic (EMT-B) training and makes minor policy clarifications, and drafting and formatting changes to comply with KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for the EMT-B training course.

(d) The benefits expected from administrative regulation are to establish uniform requirements that all EMS training institutions shall follow in the training of EMT-Bs.

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

March 15, 2000

(1) **902 KAR 13:171**, Repeal of 902 KAR 13:020 and 902 KAR 13:130.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 13:171 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will create 902 KAR 13:171, to repeal 902 KAR 13:020 and 902 KAR 13:130.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation will repeal 902 KAR 13:020 because the applicant requirements for EMT training and certification shall be included in other administrative regulations within 902 KAR Chapter 13 relating to the same subject matter and 902 KAR 13:130 is no longer needed because the requirements for EMT maintenance and discontinuation of a preestablished peripheral intravenous (I.V.) infusion shall be included in 902 KAR 13:080.

(d) The benefits expected from administrative regulation are to repeal 902 KAR 13:020 and 902 KAR 13:130 which are no longer needed because the requirements of these administrative regulations shall be included in other administrative regulations within 902 KAR Chapter 13.

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

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March 15, 2000

(1) **902 KAR 14:070**, License procedures and fee schedule for ambulance providers.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 14:070 is KRS Chapter 13B, 211.952, 216B.020(4), 216B.042, 216B.095, 216B.105 and 216B.410.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 14:070, License procedures and fee schedule for ambulance providers to update definitions relating to ambulance licensing; remove references to categories of ambulance services no longer licensed; propose changes in the manner of conducting licensing inspections; and propose changes in the fee structure related to ambulance licensing.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 216B.042 requires that the Cabinet for Health Services regulate health facilities and health services. KRS 211.952(2)(c) requires the Cabinet for Health Services to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. The function of this administrative regulation is to provide minimum licensing requirements for ground and air ambulance providers.

(d) The benefits expected from administrative regulation are to eliminate obsolete and confusing definitions relating to the ambulance licensing procedures; to provide rewards to ambulance services that consistently meet licensing requirements by permitting biannual inspections rather than annual inspections for such providers; and to modify the current licensing fee structure to be commensurate with the size of the service.

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

March 15, 2000

(1) **902 KAR 14:080**, Class I ground ambulance providers.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 14:080 is KRS 194A.030, 211.952, 216B.020(4), 216B.042, 216B.095, and 216B.410.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 14:080, Class I ground ambulance providers to update definitions relating to Class I ground ambulance providers; propose changes in the licensing, management,

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and operating requirements for Class I ground ambulance providers; propose changes in vehicle, personnel, equipment, and supply requirements for Class I ground ambulance providers; and propose a waiver process that can be utilized by Class I ground ambulance providers to request exemptions from certain regulatory requirements.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 216B.042 requires that the Cabinet for Health Services regulate health facilities and health services. KRS 211.952(2)(c) requires the Cabinet for Health Services to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. The function of this administrative regulation is to provide minimum licensing requirements for Class I ground ambulance providers.

(d) The benefits expected from administrative regulation are to eliminate obsolete and confusing definitions relating to licensing of Class I ground ambulance providers; to provide clearer and more up to date licensing, management, and operating requirements for Class I ground ambulance providers that reflect current industry practices while protecting the health of patients; to make selective changes in vehicle, personnel, equipment, and supply requirements for Class I ground ambulance services that reflect current industry practices while protecting the health of patients; and to establish a waiver process by which Class I ground ambulance providers could request consideration of exemptions from certain regulatory requirements.

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

March 15, 2000

(1) **902 KAR 14:090**, Air ambulance service providers.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 14:090 is KRS 211.952 and 216B.042.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 14:090, Air ambulance service providers to propose changes in the licensing procedure requirements for air ambulance providers; propose changes in flight personnel requirements for air ambulance providers including deleting some current requirements so as not to duplicate or be inconsistent with federal requirements for air ambulance providers; propose changes for medical personnel who staff air ambulance providers and equipment and supplies necessary for proper patient care; and propose a minimum data set of necessary information to be obtained on each air ambulance flight.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 216B.042 requires that the Cabinet for Health Services regulate health facilities and health services. KRS 211.952(2)(c) requires the Cabinet for Health Services to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. The function of this administrative regulation is to provide minimum licensing requirements for air ambulance providers.

(d) The benefits expected from administrative regulation are to update licensing procedure requirements for air ambulance providers that are more responsive to industry concerns; to eliminate requirements for flight personnel that duplicated or were more appropriately left to the Federal Aviation Administration so as to eliminate duplication, confusion, and excessive bureaucracy; to update requirements for medical personnel, equipment and supplies found on air ambulances to reflect current industry practices while protecting the health of patients.

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

March 15, 2000

(1) **902 KAR 17:041**, State Health Plan for Facilities and Services.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000, 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, Cabinet Regula-

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tion Coordinator, Office of the General Counsel, Cabinet for Health Services, 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 Public Health, Health Services 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 902 KAR 17:041 are KRS 216B.010, 216B.015(15), 194A.030, 194A.050(1), 216B.040(2)(a)2a.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 17:041.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the development and annual updating of the State Health Plan as required in KRS 216B.015(18). The State Health Plan is a critical element of the Certificate of need process for which the Cabinet is given responsibility in KRS Chapter 216B.

(d) The benefits expected from administrative regulation are the orderly and effective determination of health policy goals for health facilities and services in the Commonwealth. It will ensure appropriate distribution of health services to all Kentuckians.

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

CABINET FOR HEALTH SERVICES Department for Public Health

March 15, 2000

(1) **902 KAR 100:010**. Definitions.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 2000 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 April 28, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Selina Riley, 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 submit 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 Public Health, Health Services 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 902 KAR 100:010, Definitions, is KRS 211.842 to 211.852.

(b) The amended administrative regulation that the Department for Public Health intends to promulgate concerns definitions related to radiation. The definitions to be amended are: (1) an alert which may lead to release of radioactive material; (2) critical groups as related to individual who may be exposed to radiation; (3) decommissioning as related to release of property; (4) background radiation; (5) exclusive use as related to shipment of radioactive materials; (6) fissile materials; (7) fissile material package; (8) radiation dose to lens of the eye; (9) low specific activity radioactive material; (10) low toxicity alpha emitter; (11) maximum normal operating pressure in a containment system; (12) natural thorium material; (13) principal activities as related to license implementation; (14) residual radioactive material; (15) site area emergency as related to events at a nuclear facility; (16) surface radiation contaminated objects; (17) transport index for shipment of radioactive material; (18) type B package for shipment of radioactive material. The Department for Public Health must amend the definitions in 902 KAR 100:010 to meet the U.S. Nuclear Regulatory Commission's requirements of Agreement State Compatibility as mandated by Section 274 of the Atomic Energy Act, as amended.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 211.842(2) states the Cabinet for Health Services shall issue licenses pertaining to radioactive materials and require registration of other sources of ionizing radiation. KRS 211.842(3) states the Cabinet for Health Services shall develop and conduct programs for evaluation and control of hazards associated with the use of sources of ionizing, nonionizing, and electronic product radiation. KRS 211.844 states the Cabinet for Health Services shall provide administrative regulations for the registration and licensing of the possession and use of any source of ionizing radiation or electronic product radiation and the handling and disposal of radioactive waste.

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(d) The benefits expected from administrative regulation are: The administrative regulation provides definitions which permit licensees to be aware of terminology which may impact their license or specific requirements.

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

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

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

STATEMENT OF EMERGENCY
811 KAR 1:090

"Milkshaking" in standardbred horses has always been a track rule/policy in Kentucky. Having this rule/policy incorporated as an administrative regulation would make it easier for the stewards/judges to enforce the illegal administration of a "milkshake." An ordinary administrative regulation would not be sufficient for this proposed administrative regulation because time restraints. The Kentucky Racing Commission needs this proposed administrative regulation enacted as soon as possible to set forth the guidelines of "milkshaking" in the standardbred industry. The spring meet of the Red Mile begins April 23, 2000. An ordinary administrative regulation will not be filed with the Regulations Compiler because the proposed emergency administrative regulation will be the total package needed to set the guidelines and the penalties for "milkshaking."

PAUL E. PATTON, Governor
C. FRANK SHOOP, Chairman

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Racing Commission

811 KAR 1:090E. Stimulants and drugs.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.700
STATUTORY AUTHORITY: KRS 230.630(3), (4), (7)
EFFECTIVE: March 15, 2000

NECESSITY, FUNCTION, AND CONFORMITY: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this administrative regulation is to provide for the testing of horses for stimulants and drugs and the administrative regulation of stimulants and drugs.

Section 1. (1) Except as provided herein, at every meeting where pari-mutuel wagering is permitted, a urine test, or blood test, or both shall be conducted to determine the presence of:

- (a) Medication [Drug];
- (b) Stimulant;
- (c) Sedative;
- (d) Depressant; [or]
- (e) Local anesthetic; or
- (f) Any foreign substance except as provided by these rules [Medicine].

- (2) The tests shall be conducted on the[
(a) winning horse in every heat and race;

(b) ~~Winning horse and second place horse in every perfecta or quinella race;~~
(c) ~~Winning horse, or the second and third place horses in a trifecta, or each of them].~~

(3) The judges may order a horse in a race to be subjected to a urine test, or blood test, or both.

(4) Testing shall be performed by a laboratory designated by the commission. [The winning horse and second place horse in every heat or dash of a race at a track with a total purse in excess of \$5,000 may be subjected to a blood test, or a urine test, or both tests.

(5) ~~A test shall be made by a qualified veterinarian and by a laboratory designated by the commission.]~~

(5) [(6)](a) A positive test during a time trial shall be treated as a violation.

(b) The winning time shall be disallowed, and the trainer of record shall be:

- 1. Fined; or
- 2. Suspended; or
- 3. Fined and suspended.

[(7) In its discretion, or at the request of a member, the commis-

sion may authorize or require a blood test, or urine test, or other test of a horse racing at a meeting.]

Section 2. (1)(a) When a blood or urine sample is taken by a veterinarian, the owner, trainer or authorized agent shall be present.

(b) A sample shall be:

1. Placed in two (2) containers and designated as the "primary" and "secondary" samples. [;]

2. Immediately sealed, with tamper-proof tape and bear a portion of the multiple part "identification tag" that has identical printed numbers only. [the signature of the representative of the owner or trainer on the container.]

(c) After both portions of the samples have been identified as provided in paragraph (b)1 of this subsection, the "primary sample" shall be delivered to the commission chemist's laboratory.

(d) The "secondary sample" shall remain in the custody of the commission veterinarian at the detention area and shall be preserved in the same condition and temperature as the primary sample. [One (1) part of the sample shall be placed in a depository under the supervision of the presiding judge or other agency designated by the commission to be safeguarded until the report on the chemical analysis of the other portion of the split sample has been received.]

(2) If a positive report has been received, an owner or trainer may request the commission to have the other portion of the split sample:

(a) ~~[inserted with a subsequent group sent for testing; or~~

(b) ~~Sent to another chemist for analysis, the cost of which shall be paid by the owner or trainer.~~

(b) A list of referee labs shall be provided by the commission veterinarian or the presiding judge.

(c) The cost of the shipping shall be paid by the Kentucky Racing Commission.

Section 3. (1) If there is a positive test finding the presence of a medication [drug], stimulant, sedative, depressant, local anesthetic, or any foreign substance except as provided by these rules [depressant] in the posttrace test, the[
(a) laboratory shall immediately notify the presiding judge or commission veterinarian, who will notify the presiding judge. [; and
(b) Presiding judge shall immediately report the finding to the commission.]

(2) If a positive report is received from the laboratory by the presiding judge:

- (a) The person held responsible shall be notified; and
- (b) A thorough investigation shall be conducted by or on behalf of the judges.

(3)(a) A time shall be set by the judges for a hearing to dispose of the matter.

(b) The time set for the hearing shall not exceed four (4) racing days after the responsible person was notified.

(c) The hearing shall be continued if the judges determine that circumstances justify a continuance.

(4) If the chemical analysis of blood, urine, or other sample of the posttrace test taken from a horse indicates the presence of a medication [forbidden narcotic], stimulant, sedative, depressant, [or] local anesthetic, or any foreign substance except as provided by these rules, it shall be considered prima facie evidence that the forbidden substance had been administered to the horse.

[(5) Upon receipt of written notification of a positive test finding, the judges shall immediately suspend the horse from further participation in racing.]

Section 4. (1) No horse participating in a race or entered in a race shall carry in its body any foreign substance as defined in Section 1(1)(a), (b), (c), (d), (e), (f) of this administrative regulation, except as provided for in these rules.

(2) No substance, foreign or otherwise, shall be administered

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within twenty-four (24) hours prior to the scheduled post time for the first race except furosemide as provided for in this rule to a horse entered to race by:

- (a) Injection;
- (b) Intervenous administration;
- (c) Dose syringe;
- (d) Oral administration;
- (e) Nasal gastric tube;
- (f) Rectal infusion or suppository;
- (g) Inhalation; or
- (h) Any other means.

(3) The prohibitions in this section include, but are not limited to injection or intervenous administration of vitamins, electrolyte solutions, and amino acid solutions.

(4) A person who administers, influences, or conspires with another person to administer to a horse a medication, stimulant, sedative, depressant, local anesthetic, or any foreign substance except as provided by these administrative regulations within twenty-four (24) hours of a race in which the horse participates, shall be subject to the penalties provided in Section 16 of this administrative regulation. [A person who administers, influences, or conspires with another person to administer to a horse a drug, medicament, stimulant, depressant, narcotic, or hypnotic within forty-eight (48) hours of a race in which the horse participates, shall be subject to the penalties provided in Section 16 of this administrative regulation.]

Section 5. If the postrace test or tests prescribed in Section 1 of this administrative regulation disclose the presence in a horse of a medication [drug], stimulant, sedative, depressant, local anesthetic, or any foreign substance except as provided by these rules [sedative], in any amount, it shall be presumed that the substance was administered by the person having control, care, or custody of the horse with the intent to affect the:

- (1) Speed or condition of the horse; and
- (2) Result of the race in which it participated.

Section 6. A horse shall not be tubbed in ice in the paddock prior to its racing commitment.

Section 7. (1) A trainer shall be responsible at all times for the condition of all horses trained by him.

(2) A trainer shall not start a horse or permit a horse in his custody to be started if he knows, or if by the exercise of reasonable care he might have known or have cause to believe, that the horse has received a medication [drug], stimulant, sedative, depressant, local anesthetic, or any foreign substance except as provided by this administrative regulation [medicine or other substance that could result in a positive test].

(3) A trainer shall guard or cause to be guarded each horse trained by him in a manner and for a period of time prior to racing the horse necessary to prevent a person not employed by or connected with the owner or trainer from administering a medication [drug], stimulant, sedative, depressant, local anesthetic, or any foreign substance except as provided by these rules. [or other substance that could result in a postrace positive test.]

Section 8. (1) An owner, trainer, driver, or agent of the owner, having the care, custody, or control of a horse shall not refuse to submit the horse to tests:

- (a) Required by the provisions of this administrative regulations; or
- (b) Ordered by the judges.

(2) ~~The owner, trainer, driver, or agent of the owner of a horse that refuses to submit to a prerace blood test shall be required to submit the horse to a postrace blood test, or urine test, or both tests regardless of its finish.~~

~~(3) An owner, trainer, driver, or agent of the owner, having the care, custody, or control of a horse who refuses to comply with the provisions of this section shall be subject to fine, or suspension, or both, pursuant to Section 16 of this administrative regulation.~~

Section 9. (1) A horse in which an offense was detected pursuant to the provisions of this administrative regulation shall be placed last in the order of finish.

(2) The winnings of a horse in which an offense was detected pursuant to the provisions of this administrative regulation shall be:

- (a) Forfeited; and
- (b) Paid over to the track where the infraction occurred [commission] for redistribution among the remaining horses in the race entitled to them.

(3) A forfeiture and redistribution of winnings shall not effect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, if the distribution of pools is made upon the official placing at the conclusion of the heat or dash.

Section 10. Blood Gas Testing. (1) Testing procedure.

(a) No advance announcement of program testing by blood gas analyzer will be made.

(b) Announcement for selected races or selected horses shall be made by the judges at the appropriate time and location.

(c) The judges shall make the necessary selections of test subjects at its discretion.

(d) Each horse entered to compete in a race shall be made available upon entering the paddock for the purpose of having a blood sample drawn by the commission veterinarian or blood gas technician.

(e) Failure to report within the prescribed time or refusal by a horseman to present a selected horse under his care, custody or control for the blood gas analyzer testing shall result in an automatic scratch of the horse from the racing program, and shall be subject to the penalties provided in Section 16 of this administrative regulation.

(f) The commission veterinarian or blood gas technician shall document the name of the trainer or party who failed to report for testing or refused to have blood drawn from the horse, and shall file a report with the judges.

(2) Test documentation.

(a) The commission veterinarian or blood gas technician shall be responsible for documenting every aspect of the blood gas analyzer test procedure.

(b) The blood gas analyzer shall be calibrated by the commission veterinarian or blood gas technician prior to the program testing.

(c) The blood gas analyzer shall be properly maintained and secured during any absence of the commission veterinarian or blood gas technician.

(d) At the conclusion of testing the commission veterinarian or blood gas technician will secure documentation of testing at the commission field office.

(3) Sample handling.

(a) The blood samples shall be tested by the commission veterinarian or blood gas technician and the results of said test shall be recorded by the commission veterinarian or blood gas technician.

(b) In the event the testing of a horse shows the total dioxide (TC02) lever at thirty-seven (37) millimoles per liter or higher for nonlasix horses and a total carbon dioxide (TC02) of thirty-nine (39) millimoles per liter or higher for lasix horses.

1. The trainer or licensed designee and the presiding judge shall be notified immediately by the commission veterinarian or blood gas technician and the horse in question shall be expeditiously retested by the same procedure.

2. The blood gas analyzer testing will be observed by the trainer of the horse or his designee, and when possible the commission veterinarian.

3. A second excessive level of total carbon dioxide (TC02), as defined by this paragraph shall be deemed a positive test and the judges shall be immediately notified and the horse scratched.

(c) It is the responsibility of the commission veterinarian or blood gas technician to identify properly each horse and label blood tube accordingly prior to taking any blood samples for the blood gas analyzer test.

(4) Sanctions.

(a) The trainer or responsible party shall receive a warning for the first violation of this rule.

(b) No ruling shall be issued for the first violation of this rule.

(c) All violations thereafter the trainer of said horse shall be subject to the penalties provided in Section 16 of the administrative regulation. [Prerace Blood Test. If there is a prerace blood test that

shows that there is an element present in the blood indicative of a stimulant, depressant, or unapproved medicament, the:

- (1) Horse shall immediately be scratched from the race; and
- (2) Officials shall conduct an investigation to determine if Section 5 of this administrative regulation was violated;

Section 11. Hypodermic Syringe Prohibited. (1) Except for a licensed veterinarian approved by the commission, a person shall not have a hypodermic syringe, hypodermic needle, or other device that can be used for the injection or other infusion into a horse of a medication [drug], stimulant, sedative, depressant, local anesthetic, or any foreign substance except as provided by this administrative regulation, [or narcotic:]

- (a) Within the grounds of a licensed harness race track; or
 - (b) In or upon the premises which he occupies, or has a right to occupy; or
 - (c) In his personal property or effects.
- (2) A licensed harness racing association upon the grounds of which horses are lodged or kept shall use every reasonable effort to prevent a violation of this section.

Section 12. (1) A veterinarian practicing on the grounds of an extended pari-mutuel meeting shall:

- (a) Keep a log of their [his] activities on "Veterinary Report Of Horses Treated"; and
 - (b) Submit a copy of "Veterinary Report Of Horses Treated" to the commission veterinarian office of the track each day of a race meeting.
- (2) The log shall include the:
- (a) Name of horse;
 - (b) Name of trainer;
 - (c) Nature of ailment;
 - (d) [(e)] Type of treatment; and
 - (e) [(d)] Date and hour of treatment.

(3) The veterinarian shall report to the presiding judge or the commission veterinarian any internal medication given by him by injection or orally to a horse after he has been declared to start in any race.

Section 13. (1) A veterinarian practicing veterinary medicine on a race track where a race meeting is in progress or any other person using a needle or syringe shall:

- (a) Use only one (1) time disposable type needles; and
 - (b) Not reuse a disposable needle.
- (2) The disposable needles shall be kept in his possession until disposed of by him off the track.
- (3) A veterinarian, assistant veterinarian or his employee shall not leave a needle or syringe with anyone on a race track where a race meeting is in progress except upon written authorization from the commission.

Section 14. (1) Approval and prescription of lasix for racing shall be made:

- (a) By the commission veterinarian, or a licensed veterinarian approved by the commission; and
 - (b) If the:
 - 1. Commission or licensed veterinarian has seen the horse bleed from the nostrils; or
 - 2. Horse has been scoped and declared a bleeder by the commission veterinarian or a licensed veterinarian.
- (2) If the commission veterinarian or a licensed veterinarian approved by the commission agrees that the horse is a bleeder, the horse shall qualify and meet the standards of the meeting.
- (3) Only the commission veterinarian may administer lasix prior to a race, including [qualifying;] nonbetting, pari-mutuel races, and time trials.
- (4) The use of oral lasix shall be forbidden.
 - (5) The judges [commission] shall keep a record of horses using lasix for the first time.
 - (6) A lasix administration time schedule shall be posted, [A schedule for scoping shall be maintained by the commission veterinarian.]
 - (7) No more than 250 milligrams four (4) hours prior to a race shall be administered.

(8) A fee of ten (10) dollars shall be paid to the commission desig-
nee for [veterinarian] when lasix is administered to a horse.

- (9) If a trainer no longer wishes to use lasix:
 - (a) A "Termination of Lasix" shall be submitted to the judges [commission] office at the track; and
 - (b) Before being allowed to race without lasix, a horse shall:
 - 1. Perform in a qualifying race without the use of lasix; and
 - 2. Meet the standards of the meeting; and
 - (c) A horse shall qualify and meet the standards of the meeting prior to being permitted to use lasix again.

(10)(a) Testing shall be quantitative, and a urine with a specific gravity of less than 1:010 along with a blood level of 100 nanograms or greater shall be subjected to the penalties provided in Section 16 of this administrative regulation [and with those exceeding thirty (30) nanograms per milliliter of blood tested resulting] in a warning to the trainer [owner].

(b) [Testing shall be at random, not to exceed six (6) samples per day:

(c) A mutual decision to take random samples shall be made by the commission veterinarian and the judges.

[(d) A second violation of this subsection shall result in a fine against the owner, not to exceed \$5,000.]

(11) Horses that bleed while on bleeder medication shall be placed on the veterinarian's list and shall remain on the list until removed by the commission veterinarian after consultation with the practicing veterinarian.

(a) If the commission veterinarian and the practicing veterinarian disagree on the removal of the horse from the veterinarian's list, then a third veterinarian shall be appointed by the chairman of the commission or his designee.

(b) The opinion of the third veterinarian shall be delivered to the presiding judge and the commission veterinarian who shall make a final decision on the issue. [(a) If a horse bleeds through normal treatment with lasix, the horse shall not be eligible to race for 120 days:

(b) After 120 days, the horse shall again qualify on lasix. If the horse bleeds, it shall not be eligible to race for one (1) year.]

Section 15. Phenylbutazone. (1) [A trainer who requests permis-
sion to race his horse on phenylbutazone shall complete the Phenyl-
butazone Use Form. This form shall be submitted to the commission
veterinarian before the time of entry:

(2) A trainer who requests permission to remove his horse from the phenylbutazone program shall complete the Phenylbutazone Removal Form. This form shall be submitted to the commission veterinarian by the time of entry:

(3) A horse that is not properly registered shall not be permitted to race with phenylbutazone:

(4) The oral or intravenous administration of phenylbutazone shall not be permitted within twenty-four (24) hours of post time of the first race.

(2) [(5)] The phenylbutazone dosage administered shall not exceed:

- (a) Two (2) grams (g) oral; or
 - (b) Two (2) grams (g) intravenous.
- (3) [(6)] A post race sample reported to exceed a level of five (5) micrograms per milliliter of blood plasma shall be subject to the penalties provided in Section 16 of this administrative regulation.

[(7) The trainer of a horse that tests above the normal limit for phenylbutazone shall be held responsible:]

(4) [(8)] The oral administration of phenylbutazone may be performed by the trainer.

(5) [(9)] Phenylbutazone, injected intravenously, shall be administered by the commission veterinarian or a licensed veterinarian approved by the commission.

[(10) The commission veterinarian or licensed veterinarian shall keep a log of phenylbutazone activity as provided by Section 12(1) of this administrative regulation:]

Section 16. Unless otherwise provided, the penalty for violation of the provisions of this administrative regulation shall be:

- (1) A fine not to exceed \$10,000 [5,000];
- (2) Suspension not to exceed one (1) year;

- (3) A fine not to exceed \$10,000 [5,000], and a suspension not to exceed one (1) year; or
(4) Expulsion.

Section 17. Material Incorporated by Reference. (1) The following documents are incorporated by reference:

- (a) "Termination of Lasix, KRC-1(8/97)";
(b) "Veterinary Report Of Horses Treated, KRC-2(8/97)";
(c) "Phenylbutazone Use Form KRC-7(9/98)"; and
(d) "Phenylbutazone Removal Form KRC-8(9/98)".

(2) This material may be inspected, copied, or obtained at Kentucky Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

C. FRANK SHOOP, Chairman

DICK CARROLL, Office of the Attorney General

APPROVED BY AGENCY: March 14, 2000

FILED WITH LRC: March 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 2000, at 10 a.m., at the offices of the Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 19, 2000, five days prior to the hearing, of their intent to attend. If no notification on intent to attend the hearing is received by that day, 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: Rena Elswick, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, (606) 246-2040 Phone, (606) 246-2039 Fax.

REGULATORY IMPACT ANALYSIS

Contact Person: Rena Elswick

(1) Type and number of entities affected: These amended changes will affect any standardbred horse racing with the illegal substance commonly referred to as a "milkshake" (TC02).

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

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

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: 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 alterna-

tives 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:

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(10) Any additional information or comments: "Milkshaking" in standardbred horses has always been a track rule/policy in Kentucky. Having this rule incorporated as an administrative regulation would make it easier for the stewards/judges to enforce the illegal administration or "milkshake".

(11) Tiering: Is tiering applied? No tiering was applied since this proposed amended regulation only deals with the illegal use of "milkshaking."

ADMINISTRATIVE REGULATIONS AS AMENDED BY REVIEW SUBCOMMITTEE
AND PROMULGATING ADMINISTRATIVE BODY

ARRS = Administrative Regulation Review Subcommittee

OFFICE OF ATTORNEY GENERAL
Child Sexual Abuse and Exploitation Prevention Board
Victims Advocacy Division
(As Amended at ARRS, February 8, 2000; and
As Amended at ARRS, March 6, 2000)

40 KAR 6:020. Funding assistance for child sexual abuse medical examinations.

RELATES TO: KRS 15.900, 15.920, 15.935(1)(b) [~~15.905 to 15.940, 18.1867~~], 41.400

STATUTORY AUTHORITY: KRS 15.180, 15.935 (1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.935(1)(b) authorizes the Child Sexual Abuse and Exploitation Prevention Board to fund, from the Child Victims' Trust Fund created pursuant to KRS 41.400, the cost of child sexual abuse medical examinations [~~of victims of suspected child sexual abuse~~] to the extent the fee for an examination is a service not eligible to be paid for by Medicaid or private insurance. The function of this administrative regulation is to establish standards and criteria governing the allocation of funding assistance for the case management aspects of child sexual abuse medical examinations in accordance with KRS 15.935.

Section 1. Definitions. (1) "Applicant" means an eligible provider[; ~~as defined in this section~~]; applying for child sexual abuse medical examination funding assistance.

(2) [~~"Board" means the Child Sexual Abuse and Exploitation Prevention Board created pursuant to KRS 15.905.~~]

(3) "Case management" means all administrative aspects of the child sexual abuse medical examination and includes [~~may include, but is not limited to~~]; the following:

- (a) Transcription of records;
- (b) Scheduling appointments;
- (c) Coordination of services;
- (d) Making referrals for services; and
- (e) Consultation with multidisciplinary teams, court personnel, officers of the court, parents or guardians, social workers, law enforcement and any other party involved in the treatment or protection of the child.

(3) [(4)] "Child" is defined by KRS 15.900(1) [~~means a person under the age of eighteen (18)~~].

(4) [(5)] "Child sexual abuse medical examination" means a complete physical examination of a child with a special focus on the anal or [~~and~~]/genital area or oral cavity and the case management associated with the physical examination.

(5) [(6)] "Eligible provider" means a private, nonprofit agency whose primary purpose is to provide, either directly or through contract, prevention, intervention, and treatment services to sexually abused children and their families within a child-focused multidisciplinary team approach.

(6) "State board" is defined by KRS 15.900(4).

Section 2. Application for Child Sexual Abuse Medical Examination Funding Assistance. (1) An eligible provider [~~as defined in Section 1 of this administrative regulation~~] may annually apply to the state board for child sexual abuse medical examination funding assistance to be provided from the Child Victims' Trust Fund created pursuant to KRS 41.400. Funding shall only be used to pay for the case-management aspects of a child sexual abuse medical examination. The term of the financial assistance shall be the state fiscal year.

(2) An applicant for child sexual abuse medical examination funding assistance shall make application on "Application for Child Sexual Abuse Medical Examination Funding Assistance", [~~use an application form provided by the board~~].

[(3)] The application form "Application for Child Sexual Abuse Medical Examination Funding Assistance" is hereby incorporated by reference. It may be inspected, copied, or obtained from the Director, Vic-

tims' Advocacy Division, Office of Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, 8 a.m. through 4:30 p.m., Monday through Friday.]

Section 3. Funding Requirements. (1) The total funds annually awarded by the state board to each applicant for child sexual abuse medical examination funding assistance shall be limited by the availability of funds and board approval.

(2) [~~In no event shall~~] Reimbursement for the case management aspects of a child sexual abuse medical examination shall not exceed \$150 per case.

(3) Applicants for funding assistance shall provide assurances to the state board that:

(a) Funding assistance will be used solely for the purpose of reimbursing the case management aspects of child sexual abuse medical examinations [~~as defined in Section 1 of this administrative regulation~~];

(b) Funding assistance will supplement and not replace existing funds received by the applicant from other sources for child sexual abuse medical examinations;

(c) Funding assistance will not be used to reimburse services for which there is private health insurance coverage, or where another third party has a legal obligation to pay; and

(d) Persons performing any child sexual abuse medical examination services will comply with all applicable state and federal licensing or certification requirements.

Section 4. Funding Criteria. Allocation of funding assistance for child sexual abuse medical examinations shall be based on funds available in the Child Victims' Trust Fund created pursuant to KRS 41.400 and the following criteria:

(1) Whether the applicant is currently providing or plans to provide child sexual abuse medical examinations either directly or by contract with medical providers[; ~~for children believed to have been sexually abused~~];

(2) Whether the applicant demonstrates a need for financial assistance to be used to provide medical examinations in the geographic area served by the applicant; and

(3) Whether the applicant has the demonstrated ability to provide access to child sexual abuse medical examinations in the geographic region served by the applicant.

Section 5. Reporting Requirements. No later than ninety (90) days after the end of the state fiscal year, applicants receiving financial assistance under this administrative regulation shall submit a final report to the state board containing the following information:

(1) The applicant's total child sexual abuse medical examination budget for the period funded, which includes the amount and sources of revenue for the child sexual medical examinations and the total amount expended on the examinations;

(2) The number of child sexual abuse medical examinations conducted for the period funded; and

(3) An itemized list of the actual costs for the child sexual abuse medical examinations conducted, including [~~but not limited to~~]; the fees paid to medical personnel, laboratory fees, billing, administrative costs, and the costs for any special procedures conducted.

Section 6. Appeals. Any applicant denied available funding under this administrative regulation shall have a right to appeal pursuant to KRS Chapter 13B.

Section 7. Incorporation by Reference. (1) "Application for Child Sexual Abuse Medical Examination Funding Assistance", October 1999, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Victims Advocacy Division, Office of Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m.

through 4:30 p.m.

A. B. CHANDLER III, Attorney General
 RICHARD CARROLL, Legal Counsel
 APPROVED BY AGENCY: October 27, 1999
 FILED WITH LRC: December 14, 1999 at 2 p.m.

**KENTUCKY BOARD OF PHARMACY
 (As Amended at ARRS, March 6, 2000)**

201 KAR 2:030. License transfer.

RELATES TO: KRS 315.191(1)(c), (d)
 STATUTORY AUTHORITY: KRS 315.191(1)(a), (c), (d), 315.210
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.210
 requires the board to establish conditions for licensure by reciprocity. This administrative regulation establishes conditions, forms, and examination, for licensure by reciprocity.

Section 1. Definitions. (1) "Board" means the Kentucky Board of Pharmacy.

(2) ~~["NABP" means the National Association of Boards of Pharmacy;~~

(3) "License transfer" means a license to practice pharmacy in Kentucky issued by the board to a pharmacist licensed in another jurisdiction.

(3) "NABP" means the National Association of Boards of Pharmacy.

Section 2. An applicant licensed in another jurisdiction shall be eligible for license transfer, if the:

- (1) Requirements for initial licensure of the jurisdiction that granted his license met or exceeded Kentucky requirements for licensure at the time the license in the other jurisdiction was granted;
- (2) Applicant has not failed a board licensure examination;
- (3) Applicant has:
 - (a) Completed and certified the "NABP Preliminary Application for Transfer of Pharmaceutic Licensure" form; and
 - (b) Received an "NABP Official Application for Transfer of Pharmaceutic Licensure";
- (4) Applicant is in good standing in the jurisdiction from which he has applied;
- (5) Applicant has successfully completed an examination in jurisprudence; and
- (6) Applicant has met the requirements established by the provisions of this administrative regulation.

Section 3. Required Information. An applicant shall provide the information required by the "NABP Preliminary Application for Transfer of Pharmaceutic Licensure" form, including:

- (1) Name, maiden, and other names used currently or previously;
- (2) Address, telephone number;
- (3) Date and place of birth, and current age;
- (4) Social Security number;
- (5) Citizenship;
- (6) Gender;
- (7) State of original license by examination, including:
 - (a) License number;
 - (b) Original date of issue;
 - (c) Current status of original licensure; and
 - (d) State for which license transfer is requested;
- (8) Pharmacy education, including:
 - (a) Name and location of pharmacy school;
 - (b) Name of pharmacy degree;
 - (c) Date degree was received;
 - (d) Other professional degrees, including the information specified by paragraphs (a) to (c) of this subsection;
- (9) Whether the applicant has earned certification by the Foreign Pharmacy Graduate Examination Committee, and, if so, the examination equivalency number assigned;
- (10) Total hours of practical experience prior to licensure as a pharmacist, including the State Board of Pharmacy with which the

hours are filed;

- (11) States, dates, and results of pharmacist licensure examinations;
- (12) Pharmacist licenses obtained by:
 - (a) Score transfer; and
 - (b) Licensure transfer;
- (13) Practice and employment, including nonpharmacist employment, from initial licensure to date of filing application; and
- (14) Record of charges, convictions, and fines imposed, or certification that the applicant has not been convicted, fined, disciplined, or had a license revoked.

Section 4. The board shall accept a license transfer from a jurisdiction that:

- (1) Is an active member of the NABP; and
- (2) Grants license transfer to a pharmacist pursuant to conditions and requirements that are the equivalent of conditions and requirements established by the board.

Section 5. An applicant shall take and pass the Multistate Pharmacy Jurisprudence Examination administered by the NABP.

Section 6. (1) An applicant who has not actively engaged in the practice of pharmacy for at least 1500 hours as a registered pharmacist during the year preceding the time of filing the application shall take a practical examination.

(2) The 1500 hours of active practice as a registered pharmacist shall be accepted as meeting the board's internship requirement for an applicant for license transfer from a jurisdiction that requires less than a 1500 hour internship for licensure.

Section 7. Fee. An applicant shall include the fee specified by 201 KAR 2:050, Section 1(3).

Section 8. Incorporation by Reference. (1) "NABP Preliminary Application for Transfer of Pharmaceutic Licensure", is incorporated by reference.

(2) It may be inspected, copied, or obtained at Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, Monday through Friday, 8 a.m. to 4:30 p.m.

RODNEY C. STACEY, President

CHERYL LALONDE-MOONEY, J.D., Assistant Attorney General

APPROVED BY AGENCY: December 14, 1999

FILED WITH LRC: December 14, 1999 at 10 a.m.

**KENTUCKY STATE BOARD OF LICENSURE FOR
 PROFESSIONAL ENGINEERS AND LAND SURVEYORS
 (As Amended at ARRS, March 6, 2000)**

201 KAR 18:040. Fees.

RELATES TO: KRS ~~[322:040;]~~ 322.090, 322.100, 322.110, 322.120~~[-322:140, 322:150], 322.160[-322:420]~~

STATUTORY AUTHORITY: KRS 322.090, 322.100, 322.110, 322.120 ~~[-322:140, 322:290, 322:420]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.100 [Chapter 322] gives the board certain authority to fix fees. This administrative regulation establishes fees for application, examination, certification, licensure [registration] and renewal fees.

Section 1. Application and Licensure [Registration] Fees. (1)(a) The total fee for licensure [registration] as a professional engineer by examination shall be \$250 ~~[170]~~.

(b) Fifty (50) ~~[Thirty (30)]~~ dollars of this fee shall accompany the application for examination for licensure.

(c) The fee for examination for licensure as a professional engineer shall be \$200. The fee for examination as a professional engineer in Structural II shall be \$500. [registration-]

(2)(a) The fee for licensure [registration] by reciprocity as a professional engineer shall be \$300. This fee shall accompany the application for licensure. ~~[200;~~

(b) This fee shall accompany the application for registration.]

(3)(a) The fee for application for examination for licensure [registration] as a professional land surveyor shall be fifty (50) [thirty (30)] dollars.

(b) The fee for examination for licensure [registration] as a professional land surveyor shall be \$200 [100].

(4)(a) The initial application fee for examination as an engineer in training shall be ten (10) dollars. This fee includes one (1) examination. An applicant who does not pass this examination and applies for a subsequent examination shall pay a fee of \$110.

(b) The initial application fee for examination as a land surveyor in training shall be ten (10) dollars. An applicant who does not pass this examination and applies for a subsequent examination shall pay a fee of \$125.

Section 2. Renewal, Reinstatement, Reissuance, and Verification Fees. (1) Verification of licensure is ten (10) dollars.

(2) Renewal of a license is \$150.

(3) The fee for reinstatement of an expired license shall be calculated as provided by KRS 322.160(3). If the license has been expired for more than one (1) year, the former licensee must file a new application for reinstatement and pay a fee of \$500.

(4) Reissuance of a license after loss or destruction is twenty-five (25) dollars. [Examination Fees. (1) The fee for an examination required by KRS 322.040(1) shall be \$130.

(2) The fee for an examination required by KRS 322.040(2) shall be \$120.

(3) The application fee for examination as an engineer in training shall be forty (40) dollars.

(4) The application fee for examination as a land surveyor in training shall be sixty (60) dollars.]

Section 3. Fees for Examination and Licensure in Additional Branches. (1) After initial licensure, a licensee may apply for examination in one (1) or more branches of engineering for which he has not been licensed.

(2) For each branch of engineering he shall submit an:

(a) Updated application; and

(b) Examination fee as specified in this administrative regulation.

(3) Upon successful completion of an examination he shall submit ten (10) dollars for each addition of a new discipline. [Renewal, Reinstatement, Reissuance, and Verification Fees. (1) Verification of registration: ten (10) dollars.

(2) Renewal of registration: ninety (90) dollars.

(3) The fee for reinstatement of an expired registration shall be calculated as provided by KRS 322.160.

(4) Reissuance of registration after loss or destruction: ten (10) dollars.]

Section 4. Business Entities. The fee for a permit to practice engineering or land surveying in this state shall be \$100 for either permit. A business entity who applies for a dual permit shall submit \$150. These fees shall accompany the application. The annual renewal fee for an individual permit shall be \$100. The annual renewal fee for a dual permit shall be \$150. [Fees for Examination and Registration in Additional Branches. (1) After initial registration, a registrant may apply for examination in one (1) or more branches of engineering or land surveying for which he has not been registered.

(2) For each branch of engineering or land surveying he shall submit an:

(a) Updated application; and

(b) Examination fee of \$130.

(3) Upon successful completion of an examination, he shall submit ten (10) dollars with each application for registration in a branch of engineering or land surveying.]

Section 5. Payment of Fees. (1) Fees shall be paid by check or money order made payable to "Kentucky [State Registration] Board of Licensure".

(2) An examination fee shall be transmitted in sufficient time to be received by the board at least two (2) weeks prior to the examination.

Section 6. Forms. (1) The following forms are incorporated by

reference:

(a) "Application for Licensure (1999) [Registration (1992)]";

(b) "Professional Reference Form (1999 [1992])";

(c) "Employment Verification (1999 [1992])";

(d) "Certification of Applicant for Registration (1992)".

(2) These forms may be obtained, inspected, or copied at the Kentucky Board of Licensure [Registration] for Professional Engineers and Land Surveyors, Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601, 8 [7] a.m. to 4:30 [5] p.m., Monday through Friday.

JOSEPH F. SISLER, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: December 13, 1999

FILED WITH LRC: January 12, 2000 at noon

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at ARRS, March 6, 2000)

902 KAR 4:040. Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC).

RELATES TO: KRS Chapter 13B, [194A.030.] 194A.050, 194A.505 [194.050], 194A.990, [211.180.] 7 CFR Part 246, 21 USC 802 sec. 102

STATUTORY AUTHORITY: KRS [194A.030.] 194A.050 [Chapter 13B, 194.050(1)], 211.090(3), [211.180.] 7 CFR Part 246, 42 USC 1786[-EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: 42 USC [sec.] 1786[-the "Child Nutrition Act of 1966," as amended] and 7 CFR Part 246, **provide [provides] for [authorizes] grants for state operation of the Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC).** KRS 194A.050(1) **authorizes** the Cabinet for Health Services [is authorized by KRS 194.050] to promulgate [adopt] such rules and administrative regulations as are necessary to [implement programs mandated by federal law, or to] qualify for the receipt of federal funds, [and as are necessary to cooperate with federal agencies for proper administration of the cabinet and its programs. The function of] This administrative regulation establishes [is to set out] the application and participation process for the Kentucky Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC) for women, infants, children, vendors, **including** [and to include] the sanction, and hearing processes. [process. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.]

Section 1. Definitions. (1) "**Alcohol**" is defined in KRS 241.010(1).

(2) "**Alcoholic beverage**" is defined in KRS 241.010(2).

(3) "**Certifying professional authority**" means a person who is authorized to determine eligibility and certify persons for the WIC Program. **It includes [-including] the following:**

(a) A physician;

(b) A nutritionist with a bachelor's degree;

(c) A certified nutritionist [with a master's degree and certification by the State Board of Certification and Licensure];

(d) A [registered and] licensed dietitian;

(e) A registered nurse;

(f) A licensed practical nurse;

(g) An advanced registered nurse practitioner; and

(h) A physician's assistant **certified pursuant to 201 KAR 9:175 [that is certified by the state medical certifying authority].**

(4) [(2)] "**Compliance buy**" means a covert, on-site investigation in which a representative of the WIC Program poses as a participant and engages in a transaction involving [of] one (1) or more food instruments [and does not reveal his or her identity during the visit].

(5) [(3)] "**Contract price**" means the price for a WIC food item negotiated between the state agency and the vendor.

(6) [(4)] "**Food package**" means, for the purpose of participant

access determination, three (3) food instruments issued to a participant, valid for the same time period.

(7) [(5)] "High risk vendor" means a vendor identified as having a high probability of violating WIC Program requirements.

(8) [(6)] "Inventory audit" means a review of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient quantities of authorized supplemental food to provide to participants the quantities specified on food instruments redeemed by the vendor during a given period of time.

(9) [(7)] "Investigation" means a method used by the state agency to detect [determine] a WIC Program violation.

(10) [(8)] "Local agency" means an [-for purpose of a fair hearing, any] applying or participating WIC agency.

(11) "Low variance" means the redemption of the same type of food instruments at the same price, or within a narrow price range.

(12) [(9)] "Participant" means a pregnant, breastfeeding or postpartum woman, or an infant[;] or child, who is receiving supplemental food or food instruments, and the breastfed infant of a breastfeeding woman who is receiving WIC Program benefits.

[(10)] "Person" means for an applicant or participant in the WIC Program[;]

(13) [(11)] "Positive compliance buy" means a compliance buy in which a violation of the WIC Program has occurred.

(14) [(12)] "Proxy" means a person authorized to act for a participant.

(15) [(13)] "Routine monitoring" means overt, on-site monitoring during which representatives of the WIC Program identify themselves to vendor personnel.

(16) [(14)] "Shelf price" means the price displayed on the vendor's display case, on the shelf or on the food item.

(17) "Staple food items" means meat, poultry, fish, bread, breadstuffs, cereals, vegetables, fruit, vegetable and fruit juices, and dairy products. Items such as coffee, tea, cocoa, carbonated and uncarbonated beverages, condiments, and spices are not included.

(18) [(15)] "State agency" means the Cabinet for Health Services or its designated representative.

(19) [(16)] "Trafficking" means the redemption of a food instrument or food instruments for cash.

(20) [(17)] "Vendor" means a vendor of food items who applies for participation in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) or who, by contract, participates in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

(21) [(18)] "Vendor violation" means an intentional or unintentional act of a vendor, with or without management knowledge, which violates the WIC Program federal regulations or this administrative regulation.

(22) [(19)] "WIC Program" means the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administered pursuant to 42 USC 1786 and 7 CFR Part 246. ["Cabinet" means Cabinet for Health Services.

(2) "Secretary" means Secretary for the Cabinet for Health Services.

(3) "State agency" means the Cabinet for Health Services or its designated representative.

(4) "Vendor" means a vendor of food items who applies for participation in the Special Supplemental Food Program for Women, Infants and Children (WIC) or who, by contract, participates in the Special Supplemental Food Program for Women, Infants and Children (WIC).

(5) "WIC program" means the Special Supplemental Food Program for Women, Infants and Children (WIC) administered pursuant to 42 USC sec. 1786.

(6) "Person" means for purposes of a fair hearing, any applicant or participant in the WIC Program.

(7) "Local agency" means for purposes of a fair hearing, any applying or participating WIC agency[;]

Section 2. [Purpose. The [purpose of the] Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC) is authorized to provide supplemental foods and nutrition education at no cost to eligible persons and to serve as an adjunct to good health

care.

Section 3. Eligibility. To be certified as eligible to participate in the WIC Program, a person shall:

(1) Be categorically eligible as follows:

(a) A pregnant woman [Pregnant women];

(b) A postpartum woman [women], up to six (6) months after termination of pregnancy[; including those women who miscarry, have a stillbirth or abort];

(c) A breastfeeding woman [women], up to the infant's first birthday;

(d) An infant, birth [Infants, zero] to one (1) year of age; or

(e) A child [Children], one (1) to five (5) years of age;

(2) Provide proof of residence and be a resident of the Common-wealth [state] of Kentucky [and the geographical area served by the agency];

(3) Provide proof of identity;

(4) Provide proof of household income and meet the [cabinet approved] income criteria; and

(5) [(4)] Meet one (1) of the following [the] nutritional risk criteria [as outlined. The following conditions are considered the basis for certification]:

(a) A detrimental or abnormal nutritional condition [conditions] detectable by biochemical or antropometric measurements, such as;

1. Anemia;

2. Underweight;

3. Overweight;

4. Abnormal pattern of weight gain in pregnant women;

5. Low weight gain in an infant; or

6. Stunting in an infant or child, [anemia, underweight, overweight, abnormal pattern of weight gain in a pregnant woman, low birth weight in an infant, or stunting in an infant or child];

(b) Other documented nutritionally related medical condition [conditions], such as;

1. Clinical signs of nutritional deficiency;

2. Metabolic disorder;

3. Pre-eclampsia in a pregnant woman [women];

4. Failure to thrive in an infant;

5. Chronic infections;

6. Alcohol or drug abuse or mental retardation in a woman [women];

7. Lead poisoning;

8. History in a pregnant woman of high risk pregnancies or associated factors such as:

a. Smoking;

b. Conception before sixteen (16) months postpartum;

c. [History of] Low birth weight, premature births, or neonatal loss;

d. Adolescent pregnancy; or

e. Current multiple pregnancy; or

9. [f.] Congenital malformation in an infant or child; or

10. Infant born of a woman with alcohol or drug abuse history or mental retardation; or [clinical signs of nutritional deficiencies, metabolic disorders, pre-eclampsia in a pregnant woman, or failure to thrive in an infant];

(c) A dietary deficiency [Dietary deficiencies] that impairs or endangers [impair or endanger] health, such as inadequate dietary patterns assessed by:

1. A twenty-four (24) hour dietary recall;

2. Dietary [recall, dietary] history; or

3. [-or] Food frequency checklist; or

(d) A condition [Conditions] that predisposes a person [predispose persons] to an inadequate nutritional pattern [patterns] or nutritionally related medical condition [conditions], such as homelessness or migrancy; [chronic infections in any person, alcohol or drug abuse or mental retardation in women, lead poisoning, history of high risk pregnancies or factors associated with high risk pregnancies (such as smoking, conception before sixteen (16) months postpartum, history of low birth weight, premature births, or neonatal loss, adolescent pregnancy, or current multiple pregnancy) in pregnant women, or congenital malformations in infants or children, or infants born of women with alcohol or drug abuse histories or mental retardation];

(e) [(6)] [(e)] An infant under six (6) months of age shall [may] be

determined to be at risk if, during her pregnancy, the infant's mother:

1. Was a WIC Program participant; or
2. ~~[during pregnancy or]~~ Met risk criteria; ~~[outlined]~~ ~~[during pregnancy];~~ ~~[-and]~~

(f) ~~[(7)]~~ ~~[(f)]~~ A participant ~~[who has]~~ previously ~~[been]~~ certified ~~[eligible]~~ for the WIC Program shall ~~[may]~~ be considered to be at nutritional risk in the next certification period if the ~~certifying~~ ~~[competent]~~ professional authority determines there is a possibility of regression in nutritional status without the supplemental foods. ~~[Limits on regression may be set for certain conditions, e.g., inadequate diet.]~~

Section 3. ~~[4:]~~ Certification Periods. Program benefits shall be based upon certifications established in accordance with the following time frames:

(1) A pregnant woman ~~[Pregnant women]~~ shall be certified for the duration of her ~~[their]~~ pregnancy and for up to six (6) weeks postpartum.

(2) A postpartum woman ~~[Postpartum women]~~ shall be certified for up to six (6) months postpartum.

(3) A breastfeeding woman ~~[Breastfeeding women]~~ shall be certified at intervals of approximately six (6) months and ending with the breastfed infant's first birthday.

(4) An infant ~~[Infants]~~ shall be certified at intervals of approximately six (6) months, except an infant ~~[infants]~~ under six (6) months of age shall ~~[may]~~ be certified for a period extending up to the first birthday ~~if~~ ~~[provided]~~ the quality and accessibility of health care services ~~is~~ ~~[are]~~ not diminished.

(5) A child ~~[Children]~~ shall be certified at intervals of approximately six (6) months and ending with the end of the issuance month in which a child reaches the fifth birthday.

Section 4. ~~[5:]~~ Priority System. Vacancies in the program shall be filled as they occur unless maximum participation has been reached. At that time, vacancies shall be filled by a priority system based upon the nutritional risk of the patient.

Section 5. ~~[6:]~~ Food instruments shall be provided at the time of notification of certification. ~~[Participants shall receive the WIC Program's supplemental foods free of charge.]~~

Section 6. ~~[7:]~~ Time Frames for Processing Applicants. ~~[5:]~~ Pregnant and breastfeeding women, infants and migrants shall be screened and notified of WIC Program eligibility or ineligibility within ten (10) days. ~~[Agencies requesting to extend the processing standards to fifteen (15) days shall submit a written request justifying the need for the extension and a plan of action on how and when they shall meet the above standard.]~~ All other applicants ~~[other persons applying for the program]~~ shall be screened and notified of program eligibility or ineligibility within twenty (20) days.

Section 7. ~~[8:]~~ Nutrition Education. Nutrition education shall be made available to the participant and shall relate in a practical manner to the nutritional needs, household situation and cultural preferences. Along with nutrition education, drug and other harmful substance abuse information will be provided to each participant. Breastfeeding information and encouragement to breastfeed shall be provided to each pregnant participant unless contraindicated.

Section 8. ~~[9:]~~ Participant Abuse of the Program. (1) The cabinet or a local agency shall issue a written warning ~~[shall be given]~~ for the following suspected acts for which a complaint is received concerning a participant or the participant's parent, guardian or other authorized proxy:

- (a) Purchasing unauthorized foods;
- (b) Redeeming food instruments at an unauthorized store;
- (c) Attempting to sell or exchange supplemental food or a WIC food instrument or food instruments with another individual, group, or [a] vendor; or
- (d) Returning supplemental foods to a vendor for cash.

(2) The cabinet or a local agency shall take the ~~[following]~~ specified action ~~[shall be taken]~~ for a proven or documented act by a participant or the participant's parent ~~[parents]~~, guardian, or other authorized proxy, as follows:

(a) Redeeming a food instrument before the "first day to use" or after the "last day to use."

1. First offense: written warning.
2. Second offense: monthly pickup of food instruments.
3. Third offense: one (1) month suspension.

~~[4. Reinstatement to bimonthly or trimonthly issuance is left to the discretion of the certifying professional authority.]~~

(b) Redeeming a food instrument which has previously been reported to the WIC agency as being lost or stolen and which has been replaced by another food instrument.

1. First offense: written warning.
2. Second offense: claim for amount of food instruments redeemed.

(c) Purchasing unauthorized food.

1. First offense: written warning.
2. Second offense: one (1) month suspension.

(d) Redeeming a food instrument at an unauthorized store.

1. First offense: written warning.
2. Second offense: one (1) month suspension.

(e) Threatening physical abuse or verbal abuse of clinic or vendor staff.

1. First offense: Written warning - if possible, another staff member may serve the participant.
2. Second offense: one (1) month suspension.

(f) Physical abuse of clinic or vendor staff.

1. First offense: three (3) month suspension.
2. Second offense: three (3) month suspension.

(g) Exchanging or selling supplemental food or a WIC food instrument with another individual, group, or vendor.

1. First offense: three (3) month suspension.
2. Second offense: three (3) month suspension.

(h) Simultaneous participation in more than one (1) WIC Program or participation in both the WIC Program and the Commodity Supplemental Food Program (CSFP).

1. First offense: written warning and immediate termination from one (1) of the programs. The continuing WIC agency shall be chosen based upon the participant's residence or services.
2. Second offense: three (3) month suspension and claim for food instruments received.

(i) Knowingly and deliberately misrepresenting, concealing or withholding a fact in order ~~[or facts]~~ to obtain program benefits.

1. First offense: three (3) month disqualification and claim for improperly issued benefits.
2. Second offense: three (3) month disqualification and claim for improperly issued benefits.

(3) The amount of a claim will be determined by the value of the food instruments redeemed. If the claim is not paid, the participant will be denied application to the WIC Program for the number of months of benefits ~~[;]~~ which were used to calculate the claim amount, not to exceed three (3) months.

(4) A participant who repeatedly abuses the WIC Program will be referred to the Office of the Inspector General for prosecution under applicable statute.

(5) Activities prohibited by KRS 194A.505 apply to participants, vendors, and agency personnel. Penalties in KRS 194A.990 apply to participants, vendors, and agency personnel who have violated KRS 194A.505.

Section 9. ~~[10:]~~ Fair Hearing Procedures for Participants. ~~[6:]~~ (1) A local agency shall inform a person, [shall be informed] in writing, of the right to a fair hearing and the method by which a hearing may be requested at the time the person is ~~[of notification of:]~~

- (a) ~~[Being]~~ Ineligible for the program; ~~[When found ineligible;]~~
- (b) ~~[Being]~~ Disqualified or suspended ~~[Disqualification or suspension]~~ during a certification period; and
- (c) Issued ~~[issuance of]~~ ~~[An action which resulted in]~~ a claim ~~[against an individual for repayment of improperly issued benefits].~~

(2) The first level of hearing for a person is with the local WIC agency that has taken the adverse action against the person.

(3) A person ~~[Persons]~~ requesting a fair hearing shall contact the appropriate WIC agency within sixty (60) days from the date of the letter notifying the person of the adverse action ~~[notice and a fair hearing shall be arranged]~~. The hearing shall be held within three (3)

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weeks from receipt by the WIC [local] agency of the hearing request. The WIC agency shall provide the person [appellant] with at least [a minimum-of] ten (10) days advance written notice of the time and place of the hearing.

(a) The WIC agency shall provide the person [appellant] or the person's [their] representative an opportunity to:

1. Review prior to and during the hearing documents and records presented to support the decision under appeal;

2. Be assisted or represented by an attorney or other persons, if desired;

3. Bring witnesses to testify;

4. Present oral or documentary evidence and agreement supporting their position and question or refute any testimony or other evidence; and

5. Confront and cross-examine an [any] adverse witness.

(b) The hearing officer(s) shall decide [upon validity-of] the case based upon the record of the hearing and the relevant statutory and regulatory provisions governing the WIC Program.

(c) The basis of the decision shall be in writing and shall be the final binding decision of the WIC agency.

(d) A decision shall be reached and written notification of the decision forwarded to the person no later than forty-five (45) days from receipt of the request for hearing.

(4) [(3)] A person may appeal the [a-local] hearing officer's [officer] decision to the secretary within fifteen (15) days of the mailing date of the hearing decision notice, pursuant to Section 15 [16] [11] of this administrative regulation and KRS 13B.050.

Section 10. [11:] Vendor Authorization Criteria. [7:] (1) Only a vendor authorized by the cabinet shall redeem a food instrument.

(2) Food vendors shall be authorized in sufficient numbers and with distribution adequate to assure:

(a) Participant convenience and access; and

(b) Effective management of vendor review by the cabinet and the local WIC agency. [An appropriate number and distribution of [food] vendors shall be authorized in order to assure adequate participant convenience and access and to assure that state agency and local WIC agencies [officials] can effectively manage a review of the vendors [shall be authorized. Only authorized vendors may redeem food instruments in order to provide supplemental food to participants].]

(3) [(2)] In order to be an authorized WIC vendor, a [an-applying] vendor shall:

(a) Provide all information, including sales volume, requested by the state agency;

(b) Stock, at all times, minimum inventory in accordance with the "Quantified Minimum Inventory Requirements" outlined in the WIC Information Manual for Prospective Vendors, [as] incorporated by reference:

1. The stock shall be in the store or in the store's stockroom.

2. Expired foods do not count towards meeting the minimum inventory requirement.

3. A pharmacy shall supply formula within forty-eight (48) hours of the WIC agency request. [Pharmacies need to stock formula in accordance with the "Quantified Minimum Inventory Requirements."]

(c) As appropriate, be in compliance with the Kentucky Retail Market Sanitation Regulations, 902 KAR 45:005, [(902-KAR-45:045)] and have a valid [Kentucky] Retail Food Establishment or Retail Food Store [Market] Permit in [under] the current owner's name;

(d) Have prices commensurate with the area's authorized WIC vendors. Prices are compared according to state agency policy, outlined in the WIC Information Manual for Prospective Vendors and the WIC Vendor Manual, [as] incorporated by reference;

(e) Be in compliance with other Food and Consumer (FCS) Programs, as follows:

1. Not be disqualified or withdrawn by the United States Department of Agriculture (USDA) from participation in another Food and Consumer Service (FCS) Program;

2. Not be denied application to participate in the Food Stamp Program;

3. Not be currently paying a civil money penalty to the Food Stamp Program; or

4. Not having been assessed a civil money penalty by the Food

Stamp Program within the last two (2) years.

(f) Be requesting authorization for a business whose primary purpose is to be a retail grocery.

1. A direct distribution outlet or [and-a] wholesale food establishment is [are] not eligible.

2. [A retail firm whose primary business is something other than a retail grocery is not normally eligible for the WIC Program.]

3. A retail grocery [firm] shall:

a. Have a separate and distinct grocery department in a stationary location which stocks staple food items in addition to WIC approved foods; and

[(i) Staple food items are defined as foods such as meat, poultry, fish, bread and breadstuff, cereals, vegetable, fruit, fruit and vegetable juices, and dairy products;

(ii) Staple food items are not items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, condiments and spices.]

b. Have twenty (20) percent of gross sales in nontaxable food sales excluding specialty items such as bakery goods for bakery, produce for fruit and vegetable stands,

3. [4:] A dairy or home delivery grocery shall not be approved if it operates solely as a mobile operation.

[(e) Not be disqualified or withdrawn by USDA from participation in another FNS program nor denied application to participate in the food stamp program:

(f) Be requesting application for a business whose primary purpose is to be a retail grocery. (Does not apply to drug stores.) Direct distribution outlets and wholesale food establishments are not eligible. Retail firms whose primary business is something other than a retail grocery are not normally eligible for the program. This includes dairies, gas stations, specialty stores, liquor stores, home delivery groceries, bait shops, etc. In order for one these retail firms to be authorized, the applicant firm shall have a recognized grocery department in a stationary location which is a separate and distinct area and stocks staple food items in addition to WIC approved foods. Staple food items are defined as meat, poultry, fish, bread and breadstuff, cereals, vegetables, fruit, fruit and vegetable juices, dairy products and the like. Food items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, condiments and spices are not considered to be staple foods. All stores shall have:

1. A separate area as defined above;

2. A stock of foods other than staple food items as defined above; and

3. Twenty (20) percent of their gross sales in total food sales excluding their specialty items. (Bakery goods for bakery, produce for fruit and vegetable stands.)

Dairies and home delivery groceries shall not be approved if they operate solely as a mobile operation.]

(g) Be open for business year round on a full-time basis at least eight (8) hours per day, six (6) days per week;

(h) Be accessible to monitoring by state and federal officials without prior notice; and

(i) Not in debt to the WIC Program for an unpaid claim or a civil money penalty against [for] a store owned or previously owned by the applying owner.

(4) Determination of the business integrity and reputation of the applying vendor shall be based upon the following:

(a) Criminal conviction records reflecting on the honesty or integrity of officers or managers of the applicant firm;

(b) Official records of removal from other federal, state or local programs;

(c) Judicial determination in civil litigation reflecting on the integrity of officers or managers of the applicant firm;

(d) Evidence of an attempt to circumvent a period of disqualification from the WIC Program. The WIC Program shall not authorize a store that has undergone a sale or change of operation if such a transaction is from a disqualified owner, operator or manager of a store who is currently suspended, sanctioned, or disqualified from WIC or the Food Stamp Program to a relation by marriage or consanguinity within the fourth degree];

(e) Evidence of prior fraudulent behavior of an officer, manager or employee of the applicant firm; and

(f) Other evidence reflecting on the business integrity and reputation of the applicant.

(5) The WIC Program shall not authorize a store that has attempted to circumvent a period of disqualification from the program. This includes a store that has undergone a sale or change of operation if the transaction involves the following parties:

(a) The seller or transferor is an owner, operator, or manager who is currently suspended, sanctioned, or disqualified from WIC or the Food Stamp Program; and

(b) The buyer or transferee is related to the seller by marriage or consanguinity within the fourth degree.

(6) A contract shall not be entered into with a vendor if the contract would cause a conflict of interest, real or apparent.

Section 11. ~~[42:]~~ Vendor Right to a Hearing. ~~[8:]~~ (1) A vendor shall be informed in writing of the right to a [fair] hearing and the method by which a hearing may be requested, for the following adverse actions:

(a) Denial of application to participate in the program; [and]

(b) Disqualification; or

(c) Other adverse action which affects participation during the agreement performance period.

(2) The following actions are [Expiration of an agreement with a vendor is] not subject to appeal:

(a) Expiration of an agreement with a vendor;

(b) The WIC Program's determination of participant access; or

(c) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program.

(3) A vendor aggrieved by a qualifying adverse action shall request a hearing in accordance with Section 15 of this administrative regulation. [Vendor shall request a fair hearing in accordance with Section 11 of this administrative regulation.]

Section 12. ~~[43:]~~ Vendor Violations and Sanctions. (1) [9:] In addition to any criminal penalty imposed pursuant to KRS 194A.990, the cabinet shall impose one (1) or more of the following civil sanctions for designated violations committed by a [For the following violations [acts or circumstances] committed by the] vendor, his employee or agent[, the cabinet shall impose the following state agency sanctions]:

Type of Abuse	[Period of Disqualification]		
	1st Offense	2nd Offense	3rd Offense
1. Providing cash/credit for WIC checks (trafficking)	1 year	2 years	3 years
2. Selling nonfood items for WIC checks	6 months	1 year	18 months
3. Selling related but unauthorized foods	Written Warning	3 months	6 months
4. Charging more than the current retail market price for WIC food items	6 months	1 year	18 months
5. Charging for food not received by the WIC participant	1 year	2 years	3 years
6. Charging for food not authorized on the WIC check	6 months	1 year	18 months
7. Redeeming WIC checks outside valid period	Written Warning	3 months	6 months
8. Not recording actual purchase price on WIC checks at time of purchase	Written Warning	3 months	6 months
9. Giving due bills, IOU's or rainchecks	Written Warning	3 months	6 months
10. Suspension from Food Stamp Program	Equivalent to food stamp disqualification period (does not have to run concurrently)		

11. Nonpayment of a claim made by state agency	3 months	6 months	1 year
12. Discrimination (separate WIC lines; denying trading stamps; other customer courtesies)	Written Warning	3 months	6 months
13. Failure to allow monitoring and inspection of store premises; records and procedures or access to WIC checks	Written Warning	3 months	6 months
14. Failure to return WIC vendor authorization stamp upon request	Add 3 months to previously established disqualification period or monetary penalty in the amount of unauthorized funds received or both		
15. Requiring cash purchase to redeem WIC checks	Written Warning	3 months	6 months]

(a)1. Vendor violation: failure to record actual purchase price on a WIC food instrument at the time of purchase.

2. Pattern of incidence and length of disqualification:

a. First investigation. Two (2) positive compliance buys out of three (3) shall result in a written warning.

b. Second investigation. Two (2) positive compliance buys out of three (3) shall result in a three (3) month disqualification.

c. Third investigation. Two (2) positive compliance buys out of three (3) shall result in a six (6) month disqualification.

(b)1. Vendor violation: failure to pay a claim made by the state agency. The state agency shall request payment as follows:

a. Mail a letter to the vendor requesting payment by a specified date;

b. If payment is not received, contact vendor by telephone requesting payment; and

c. If payment is not received, mail a second letter by certified mail, return receipt requested.

2. Pattern of incidence and length of disqualification:

a. First instance shall result in a three (3) month disqualification.

b. Second instance shall result in a six (6) month disqualification.

c. Third instance shall result in a one (1) year disqualification.

(c)1. Vendor violation: failure to return the WIC vendor authorization stamp upon request. Before issuance of a sanction, the state agency shall contact the vendor by telephone to request the return of the stamp.

2. Pattern of incidence and length of disqualification: three (3) months shall be added to the previously established disqualification period.

(d) A first offense shall be removed from a vendor's record if three (3) federal fiscal years elapse without recurrence of a violation described in paragraph (a), (b), or (c) of this subsection. [After three (3) federal fiscal years without reoccurrence of the violations listed in paragraph (a), (b), or (c) of this subsection, the first offense shall be removed from the vendor's record.]

[(2) For the following acts or circumstances committed by the vendor, his employee or agent(s), the cabinet shall impose the following mandatory sanctions:]

(e) [(a)]1. Vendor violation: convicted of trafficking in a food instrument or instruments or selling a firearm [firearms], ammunition, an explosive, or controlled substance [explosives or controlled substances], as defined in [Section 102 of the Controlled Substances Act (21 USC 802 section 102)], in exchange for a food instrument or instruments.

2. Pattern of incidence and length of disqualification: one (1) occurrence (one (1) time) of this violation shall result in a permanent disqualification. [A civil money penalty in lieu of the disqualification shall be imposed only if the vendor had in effect, at the time of the violation, a policy and program in effect to prevent trafficking and the ownership of the vendor was not aware of, did not approve of, and was not involved in committing the violation.]

(f) [(b)]1. Vendor violation: trafficking in a food instrument or instruments or selling a firearm [firearms], ammunition, an explosive, or controlled substance, [explosives or controlled substances] as defined in 21 USC 802 section 102, in exchange for a food instrument or instruments.

2. Pattern of incidence and length of disqualification: one (1) positive compliance buy shall result in a six (6) year disqualification.

(g) [(e)]1. Vendor violation: sale of alcohol or alcoholic beverage [beverages] or tobacco product [products] in exchange for a food instrument or instruments.

2. Pattern of incidence and length of disqualification: one (1) positive compliance buy shall result in a three (3) year disqualification.

(h) [(d)]1. Vendor violation: claiming reimbursement for the sale of an amount of a specific supplemental food item, which exceeds the vendor's documented inventory of that supplemental food item for a specific period of time.

2. Pattern of incidence and length of disqualification:

a. An inventory audit for a thirty (30) day period which results in twenty-five (25) percent or more WIC sales than the documented inventory, shall result in a three (3) year disqualification; or

b. An inventory audit for a ninety (90) day period which results in ten (10) percent or more WIC sales than the documented inventory, shall result in a three (3) year disqualification.

(i) [(e)]1. Vendor violation: charging a participant [participants] more for supplemental food than:

a. A non-WIC customer is charged;

b. [customers or charging participants more than] The current shelf price; or

c. The contract price.

2. Pattern of incidence and length of disqualification:

a. Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification if:

(i) The vendor has exhibited a prior pattern of overcharging based upon routine monitoring visits which have resulted in two (2) letters for price discrepancies; or

(ii) The vendor has exhibited a pattern of two (2) out of four (4) quarters of low variance [(redeeming food instruments at or near the same amount)] in the prior federal fiscal year.

b. The state agency shall:

(i) Require a [any] vendor who has received two (2) letters for price discrepancies during the federal fiscal year to receive training provided by the state agency.

(ii) Notify a [any] vendor who exhibits a pattern of low variance for two (2) or more quarters during the federal fiscal year.

c. Three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification for a vendor who does not meet the conditions in clause a(i) or (ii) of this subparagraph.

(j) [(f)]1. Vendor violation: receiving, transacting or redeeming a food instrument by an unauthorized vendor through an authorized store.

2. Pattern of incidence and length of disqualification: two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(k) [(g)]1. Vendor violation: receiving, transacting or redeeming a food instrument by an unauthorized person, not a participant, proxy, or undercover investigator, as determined by an investigation by the Office of the Attorney General.

2. Pattern of incidence and length of disqualification: two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(l) [(h)]1. Vendor violation: charging for supplemental food not received by the participant, such as [which means] charging for one (1) food item or more listed on the food instrument but not purchased by the WIC participant.

2. Pattern of incidence and length of disqualification: three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(m) [(i)]1. Vendor violation:

a. Providing credit, [which means] an IOU, a rain check, a due bill, or a store credit; or

b. Providing a [-or] nonfood item [items] other than cash, alcohol, tobacco, firearms, ammunition, explosives or controlled sub-

stances, as defined in 21 USC 802 section 102, in exchange for food instruments.

2. Pattern of incidence and length of disqualification: two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(n) [(j)]1. Vendor violation: providing an unauthorized food item or items in exchange for a food instrument [instruments].

2. Pattern of incidence and length of disqualification: five (5) positive compliance buys out of five (5) shall result in a one (1) year disqualification.

(o) [(k)]1. Vendor violation: charging for supplemental food provided in excess of those listed on the food instrument.

2. Pattern of incidence and length of disqualification: five (5) positive compliance buys out of five (5) shall result in a one (1) year disqualification.

(p) [(l)] A vendor who has been disqualified from the Food Stamp Program shall be disqualified from the WIC Program for the same length of time as the Food Stamp Program disqualification.

(q) [(m)] A vendor who has been assessed a civil money penalty by the Food Stamp Program, as provided under 7 CFR 278.6, shall be disqualified from the WIC Program for the same length of time for which the vendor would have been disqualified from the Food Stamp Program unless the WIC Program determines that disqualification would result in inadequate participant access, in which case a [no] penalty shall not be assessed.

(2) [(9)] If multiple vendor violations are found during an investigation, the length of the disqualification shall be determined by the most serious violation.

(3) [(4)] If a vendor who has previously received two (2) or more of [any of] the mandatory sanctions designated in subsection (1)(e) through (o) [2(a) through (k)] of this section receives another sanction for a violation designated in subsection (1)(e) through (o) [2(a) through (k)] of this section, the third and all subsequent sanctions shall be doubled. A civil money penalty shall not be assessed for a third or subsequent sanction.

Section 13. [14:] Participant Access Determination and Civil Money Penalty. (1) Except for a violation specified in Section 12(1)(e) of this administrative regulation, prior to disqualifying a vendor for a [any] violation specified in Section 12 [13] of this administrative regulation, the WIC Program vendor manager shall determine if disqualification of the vendor will result in inadequate participant access.

(2) The determination and documentation of adequate participant access shall be made using the criteria provided in subsections (4) and (5) [subsection (4)] of this section.

(3) Mileage shall be measured by automobile odometer.

(4) There is adequate participant access, if:

(a) There is another vendor within [less than or equal to] seven (7) miles of [from] the vendor; or

(b) There is another vendor between the subject vendor and a health department service site, and the other vendor is within seven (7) miles of the health department service site; [health department or health department service site and the subject vendor and the health department or health department service site is less than or equal to seven (7) miles from the other vendor and]

(c) There is no geographic barrier, such as an impassable mountain[-] or river, between the subject vendor and the next accessible vendor; or

(d) [(5)(a)] The subject vendor is redeeming food instruments for formulas classified as special formulas and there is another vendor within seven (7) miles that can obtain the formula.

(5) [(b)] If five (5) or more total food packages are redeemed by the subject vendor in the calendar month period immediately preceding the issuance of a sanction letter, then the WIC coordinator shall be consulted to determine if special cases exist which will result in inadequate participant access.

(6) If inadequate participant access is determined, a civil money penalty shall be assessed for the violations listed in Section 12 [13] of this administrative regulation. The civil money penalty shall be calculated in accordance with the procedures outlined in the Vendor Manual, incorporated by reference.

(7) The WIC Program shall negotiate an installment plan for the

collection of a civil money penalty.

(8) ~~[(f)]~~ A vendor that fails to pay, partially pays, or fails to timely pay a civil money penalty, ~~[(the vendor)]~~ shall be disqualified for the length of time corresponding to the most serious violation.

~~[Notice of sanction to be imposed by the cabinet and the date upon which such sanction is to commence may be hand-delivered to the vendor or mailed certified mail return receipt requested to the vendor's last known address.]~~

Section 14. ~~[(15:)]~~ Local Agency Right to a Hearing. ~~[(10:)]~~ If a local ~~[an]~~ agency is denied application, **is disqualified from** ~~[(has participation in)]~~ the program, ~~[(denied)]~~; or ~~[(any)]~~ other adverse action affecting participation is taken, then any appeal **taken** shall be in accordance with Section 15 ~~[(16)]~~ ~~[(11)]~~ of this administrative regulation.

Section 15. ~~[(16:)]~~ Administrative Appeal. ~~[(11:)]~~ (1) A person appealing a local agency hearing officer's decision or ~~[(Any participant)]~~, a vendor or a local agency aggrieved by a decision of the cabinet to impose a sanction authorized by law ~~[(or this administrative regulation)]~~ may file a written request for a hearing with the cabinet no later than fifteen (15) days after receipt of notice of adverse action. **The hearing shall be conducted in accordance with KRS Chapter 13B.**

(2) ~~[(Upon receipt of a request for a hearing, the secretary, in compliance with KRS 13B.030(1), shall appoint an impartial hearing officer to conduct the hearing.)]~~ Within fifteen (15) ~~[(ten (10))]~~ days of a request for a hearing, the cabinet shall issue a notice of hearing ~~[(in compliance with KRS 13B.050)].~~

~~[(2) The hearing conducted on the appeal shall comply with the requirements of KRS Chapter 13B, including KRS 13B.080 and 13B.090. The hearing officer may order where relevant an independent medical assessment or professional evaluation from a source mutually agreeable (satisfactory) to both the person (participant) and the state agency.]~~

(3) **A decision assessing** ~~[(The hearing officer(s))]~~ shall decide ~~[(upon)]~~ the validity of the violation and sanction imposed **shall be** based upon the record of the hearing and the relevant statutory and regulatory provision ~~[(provisions)]~~ governing the WIC Program.

(4) **The final order of the cabinet shall be** ~~[(A recommended decision complying with KRS [Chapter] 13B.110 [(10)(f)) shall be forwarded to the agency head. A decision shall be reached by the agency head and written notification of the decision] forwarded to the appellant (vendor) no later than sixty (60) days from the date of receipt of the written request for hearing, unless the appellant waives this date in writing. [(The decision shall advise the appellant of the right to appeal pursuant to KRS 13B.140.)]~~

Section 16. ~~[(17:)]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "WIC Information Manual for Prospective Vendors" August, 1999; and

(b) "WIC Vendor Manual" August, 1999.

(2) This material may be inspected, copied or obtained at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

RICE C. LEACH, M.D., Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 13, 1999

FILED WITH LRC: December 15, 1999 at 9 a.m.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Long-term Care Division
(As Amended at ARRS, March 6, 2000)**

907 KAR 1:155. 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 CFR 447.272**, 42 USC 1396a, b, d, n, ~~[(EO 96-862)]~~

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520 ~~[(194.050, EO 96-862)]~~

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, **is required** ~~[(has responsibility)]~~ to administer the Medicaid Program. ~~[(Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services.)]~~ KRS 205.520 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 a developmental disability ~~[(disabilities)]~~ as an alternative to placement in an intermediate care facility ~~[(services)]~~ for an individual with mental retardation or a developmental disability. ~~[(the mentally retarded.)]~~

Section 1. Definitions. (1) **"Annualized upper limit" means the aggregate amount reimbursed to the SCL providers not to be exceeded in a twelve (12) month calendar period.**

(2) **"Cost report" means the Supports [Support] for Community Living Cost Report and includes the Financial Information Listing completed by the SCL provider and submitted with the cost report.**

(3) ~~[(2)]~~ "Department" means the Department for Medicaid Services or its designee.

(4) ~~[(3)]~~ [Definition:] "Supports for community living" or **"SCL"** ~~[(SCL)]~~ means community-based waiver services for an individual with mental retardation or a developmental disability ~~[(disabilities)]~~.

Section 2. Coverage. (1) The department ~~[(cabinet)]~~ shall reimburse a participating provider of SCL for a service to a Medicaid recipient who:

(a) Meets patient status criteria for an intermediate care facility for an individual [individuals] with mental retardation or a developmental disability ~~[(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) Except as provided in subsection (6) [(7)] of this section, 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 that is:

(a) Based on a budgeted Supports for Community Living Cost Report; ~~[(and)]~~ ~~[(cost report in accordance with the Department for Medicaid Services Supports for Community Living Payment Rate Determination Manual, which is incorporated by reference.)]~~

(b) Completed pursuant to the Instructions for SCL Cost Reporting; **and**

(c) **Submitted by the provider with the Financial Information Listing.**

(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) Except as provided in Section 8(4) or 9(4) of this administrative regulation, 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:

(a) Pursuant to 907 KAR 1:039, 907 KAR 1:626, 907 KAR 1:631, or 907 KAR 3:010, whichever is applicable ~~[(At a reasonable cost as [(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.)]~~

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(b) Apart from the services paid through the cost report; and

(c) If the item is:

1. Prescribed for a recipient by a physician as necessary for an individual's habilitation; and

2. Not otherwise covered by Medicaid.

(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.

(5) [(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.

(6) For state fiscal years 1999 and 2000 [and 2001], the payment amount for SCL services shall be established pursuant to Sections 8 and 9 of this administrative regulation.

Section 4. Units of Service. (1) The units of service shall be as follows:

Type of service	Units
SCL coordination services	1 month
Residential care	24 hours
Community living	1 hour
Respite	1 hour
Community habilitation	1 hour
Physical therapy	15 minutes
Occupational therapy	15 minutes
Speech therapy	15 minutes
Behavioral support	15 minutes
Psychological services	15 minutes
Wellness monitoring	1 visit
Supported employment	1 hour
Personal Emergency Response System initial Installation	1 month
Personal Emergency Response System usage	1 month
Specialized medical equipment and supplies	1 item

(2) An SCL provider shall:

(a) Not round minutes nor hours up to make a unit of service; and

(b) Bill the department for a unit of service that has been provided in its entirety.

[(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.

(3) A cost shall be allowable and eligible for reimbursement if the cost is:

(a) Reflective of a provider's actual expenses of providing a service; and

(b) Related to Medicaid patient care pursuant to 42 CFR 413.9.

(4) The following costs shall be allowable:

(a) Costs to related organizations pursuant to 42 CFR 413.17;

(b) Costs of educational activities pursuant to 42 CFR 413.85;

(c) Research costs pursuant to 42 CFR 413.90;

(d) Value of services of nonpaid workers pursuant to 42 CFR 413.94;

(e) Purchase discounts and allowances, and refunds of expenses pursuant to 42 CFR 413.98;

(f) Depreciation on buildings and equipment if the [a] cost is:

1. Identifiable and recorded in the provider's accounting records;

2. Based on historical cost of the asset or, if donated, the fair market value; or

3. Prorated over the estimated useful life of the asset using the straight-line method;

(g) Interest on current and capital indebtedness; [or]

(h) Professional costs of services of full-time or regular part-time employees not to exceed what a prudent buyer would pay for comparable services; or

(i) Value of motor vehicles used by management personnel:

1. Up to a value of \$20,000; or

2. In excess of \$20,000 if the value is considered part of salary compensation.

(5) The following shall not be [are not] allowable costs:

(a) The value of services provided by nonpaid members of an organization if there is an agreement with the provider to furnish the services at no cost;

(b) Political contributions;

(c) Legal fees for unsuccessful lawsuits against the Cabinet for Health Services;

(d) Legal fees incurred for judgments granted as a result of unlawful pursuits;

(e) Travel and associated costs outside the Commonwealth of Kentucky to conventions, meetings, assemblies, conferences [conference] or any related activities that are not related to SCL training or educational purposes;

(f) Motor vehicles used by management personnel in excess of \$20,000 per vehicle, unless the cost is considered salary compensation;

(g) Costs related to lobbying; or

(h) Residential room and board costs for SCL clients.

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) The Supports for Community Living Cost Report and supporting documentation shall be subject to desk review or audit to determine reported expenses as allowable, reasonable and necessary.

(3) 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 (SFY) 1999 [through 2000]. (1) For SFY 1999 [through 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 SFY 1998 [through 1999], the payment rate established pursuant to paragraph (a) of this subsection shall be increased by an additional four (4) percent for:

1. A community habilitation; or

2. A staffed residence.

(2) 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 multiplied by 115 percent for:

(a) A new provider who did not offer SCL services prior to July 1, 1999; or

(b) A current provider who offers an SCL service that was not offered prior to July 1, 1999. [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.]

(3) A provider shall be reimbursed for a service specified in and pursuant to the methodology established in Section 3(3) of this administrative regulation.

(4) The reimbursement of a SCL service for SFY 1999 [through 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. Payment Amounts for State Fiscal Year (SFY) 2000 [through 2001]. (1) For SFY 2000 [through 2001], 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, 2000 shall be indexed for inflation by three and one-half (3.5) [a minimum of three (3)] 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) [minimum of three (3)] percent.

(c) If the payment rate that was in effect for the period ending June 30, 2000 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 SFY 1998 [1999 through 2000], the payment rate established pursuant to paragraph (a) of this subsection shall be increased by an additional four (4) percent for:

1. A community habilitation; or

2. A staffed residence.

(2) 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 multiplied by 115 percent for:

(a) A new provider who did not offer SCL services prior to July 1, 2000; or

(b) A current provider who offers an SCL service that was not offered prior to July 1, 2000. [The rate setting methodology for:

(a) A new provider who did not offer SCL services prior to July 1, 2000; and

(b) A current provider who offers an SCL service that was not offered prior to July 1, 2000 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.]

(3) A provider shall be reimbursed for services specified in and pursuant to the methodology established in Section 3(3) of this administrative regulation.

(4) The reimbursement payment of a SCL service for SFY 2000 [through 2001] 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 10. Federal Imposed Minimum Wage Increase.

(1) The department shall notify each SCL provider of the:

(a) Additional funding available to SCL providers to compensate for the federally mandated minimum wage increase; and

(b) Procedures for Applying the Minimum Wage Increase.

(2) An SCL provider shall, for each employee affected by the increase:

(a) Complete the Supports for Community Living Minimum Wage Impact Form in accordance with the Instructions for Completing the Minimum Wage Impact Form;

(b) Submit the completed form to the department within forty-five (45) days; and

(c) Submit payroll records to the department as documentation.

(3) The minimum wage pool shall:

(a) Not exceed \$250,000; and

(b) Be prorated among all SCL providers qualifying for participation in the pool.

(4) The minimum wage costs shall be limited to:

(a) Amounts not included in the SFY ending June 30, 1997 SCL provider cost reports used to set the base rate for each service included in the SFY 1999 and SFY 2000 payment rates; and

(b) Increased costs required to comply with the mandatory minimum wage increase, which shall be subject to the maximum allowable rate as set SFY July 1, 1998 for each service.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Supports For Community Living Cost Report", Department for Medicaid Services, December 1999 edition; [and]

(b) "Instructions For SCL Cost Reporting", Department for Medicaid Services, December 1999 edition;

(c) "Financial Information Listing", Department for Medicaid Services, March 2000 edition;

(d) "Procedures for Applying the Minimum Wage Increase", Department for Medicaid Services, March 2000 edition;

(e) "Supports for Community Living Minimum Wage Impact Form", Department for Medicaid Services, March 2000 edition; and

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(f) "Instructions for Completing Minimum Wage Impact Form", Department for Medicaid Services, March 2000 edition. [The Supports for Community Living Payment Rate Determination Manual, Department for Medicaid Services, March 1998 Edition, is incorporated by reference.]

(2) This material [it] 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. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 29, 1999

FILED WITH LRC: December 29, 1999 at noon

CABINET FOR HEALTH SERVICES
Department for Mental Health and
Mental Retardation Services
Division of Substance Abuse
(As Amended at ARRS, March 6, 2000)

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs. [Administrative procedures for DUI facilities and programs:]

RELATES TO: KRS 189A.010, 189A.040, 189A.045, 189A.070, 222.003, 222.005, 222.221, 222.231, 222.271, 222.990 [Chapters 189A, 216B, 222]

STATUTORY AUTHORITY: KRS 189A.040(6), 194A.030(5), 194A.050(1) [194.030(9)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189A.040(6) [Chapter 189A] requires the Cabinet for Health Services [Human Resources] to promulgate administrative regulations to prescribe standards for the licensing and operation of the alcohol and other drug education and treatment facilities and programs that provide [for offenders receiving] assessment, education, and [or] treatment services to offenders convicted of driving under the influence pursuant to KRS 189A.010. [KRS 194A.030 places the Department for Mental Health and Mental Retardation Services and its programs under the Cabinet for Health Services.] This administrative regulation establishes certification requirements and minimum standards[.] for an individual or other entity operating a DUI program. [under the driving while impaired law.]

Section 1. Definitions. (1) "Accredited college or university" means an institution listed in the most recent College Handbook published by College Board Publications, P.O. Box 886, New York, New York 10123-0886.

(2) "Affidavit of indigency" is defined in KRS 31.120(6). [means a sworn statement issued by a court to certify that a defendant has limited income and resources and does not have the ability to pay for the services delivered.]

(3) "Alcohol and other drug-free work place" means a program's policy to prohibit the unlawful manufacture, distribution, possession or use of a controlled substance and to establish the disciplinary action to be taken if the policy is violated.

(4) "Assessment" means a procedure administered to an individual convicted of DUI that includes the administration of a computerized assessment instrument, a clinical interview, a determination by the assessor of a client's needs, a discussion of available options and referral to services that provide an appropriate level of care in relation to the client's needs [as determined by the assessment].

(5) "Cabinet" is defined in KRS 222.005(3) and means the Office of Inspector General, Division of Licensing and Regulation, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

(6) "Case coordination [(which was formerly case management)]" means the monitoring of a client's progress, including consultation with other service [services] providers and the court to ensure the coordination of a client's services from assessment to completion, and which was formerly referred to as case management.

(7) "Case review" means the process in which a clinical services supervisor reviews the client records of a clinician to ensure that appropriate treatment decisions are made.

(8) "Certification" means the process by which the division recognizes and authorizes a program, assessor, or [and] instructor to provide services to a client convicted of DUI.

(8) "Certified alcohol and drug counselor" is defined in KRS 309.080(2).

(9) "Certified assessor" means an individual who has been trained and approved by the division to evaluate the needs of a client and to recommend appropriate services by conducting assessments in a DUI program.

(10) "Certified instructor" means an individual who has been trained and approved by the division to provide education services in a DUI program.

(11) "Certified program" means a public or private entity approved by the division to deliver assessment, education or [and] treatment services to a client convicted of DUI.

(12) "Client" means an individual who receives services in a DUI program.

(13) "Clinical services supervisor" means an individual responsible for monitoring and directing assessment and [assessment and] treatment services and providing consultation and instruction to clinical staff [that deliver assessment and treatment services].

(14) "Conflict of interest" means a private relationship exists between a client and a program, that will result in a conflict between the program's interests and the interests of the client, or [and] a situation will be created where a program's personal or financial interest conflicts with professional responsibility.

(15) "Court" means the court in which the [a] client was [is] convicted of DUI.

(16) "Courtnet disposition system" means a statewide database maintained by the Kentucky Administrative Office of the Courts[.] that contains criminal conviction data from both state and local law enforcement agencies in Kentucky.

(17) "Detoxification [treatment]" means a twenty-four (24) hour medical or nonmedical program providing:

(a) Supervised management of physical and psychological withdrawal symptoms from a substance to which an individual has been addicted or abusing; and

(b) An assessment of the individual's need for further care or referral to appropriate resources.

(18) "Division" means the Division of Substance Abuse, Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, 100 Fair Oaks Lane, 4E-D, Frankfort, Kentucky 40621-0001.

(19) "DUI" means driving under the influence of alcohol or other drugs in violation of KRS 189A.010. [is defined in KRS Chapter 189A.]

(20) "DUI services" means assessment, education, or treatment services provided to a client convicted pursuant to KRS 189A.010.

(21) "Education" means a curriculum approved by the division that provides information about the risks of alcohol and other drugs.

(22) "Education agreement" means a written plan outlining what a client referred for education is required to [must] complete to satisfy the program's requirements.

(23) "Enrollment" means the act of registering at a certified DUI program and receiving an assessment.

(24) "Facility" means the physical area including the grounds and building in which a program delivers services.

(25) "Fee agreement" means a written statement of charges to a client for services delivered by a program that specifies the arrangements for payment of the fees.

(26) "First offender" means a person who was convicted of a first offense under [is defined in] KRS 189A.010(4)(a).

(27) "Halfway house" means a therapeutic group setting in which counseling is not provided by staff and in which a client resides twenty-four (24) hours a day, and where the client makes a social and vocational adjustment prior to returning to family or independent living in the community.

(28) "Immediate danger" means a condition in the [a] program which [that] could or has caused death or serious physical injury.

(28) [(29)] "Indigent person" is defined in KRS 31.100(3).

(29) [(30)] "Inpatient [treatment]" means a hospital-based residential service provided postwithdrawal, to an individual with a primary or secondary diagnosis of alcohol or other drug abuse or dependency, that is designed to reduce or eliminate alcohol or other drug abuse behavior and dependency.

(30) [(31)] "Intensive outpatient [treatment]" means a structured comprehensive program of individual and group therapeutic activities delivered in a nonresidential setting, where a client is assisted in recovery from alcohol or other drug abuse on a scheduled and intense basis. [intensive substance abuse rehabilitation program provided for an individual and his family experiencing a problem related to alcohol or other drug abuse or dependency.]

(31) [(32)] "Location code" means a six (6) digit number issued by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to each of a program's facilities.

(32) [(33)] "Means test" means an objective method used by a program to determine a client's income and resources to evaluate his ability to pay for services received.

(33) [(34)] "Memorandum of understanding" means a written agreement between two (2) programs that outlines the duties and responsibilities of a program regarding a client referral that remains in effect until one (1) of the programs terminates the agreement in writing.

(34) [(35)] "Multiple offender" means a person who was convicted of a second, third or subsequent offense under [offender as defined in] KRS 189A.010.

(35) [(36)] "Off the grounds" means a facility is separated from another facility by a public road.

(36) [(37)] "Outpatient [treatment]" means individual and group therapeutic activities assisting a client in recovery from alcohol or other drug abuse, provided in a nonresidential setting on a scheduled and unscheduled basis [where a client is assisted in recovering from alcohol and other drug abuse].

(37) [(38)] "Plan of correction" means a program's written plan, including the planned correction and a date when a correction will be made, that is submitted to the division by a program if deficiencies are cited by the division in a program review.

(38) [(39)] "Program administrator" means an individual, or the designee of the individual, in charge of the operation of a program who is responsible for the services provided in a program and who has responsibility for determining if a client satisfactorily completes the required services.

(39) [(40)] "Program code" means an alphanumeric identifier that is issued to a program by the division at the time a program is certified.

(40) [(41)] "Progress note" means a written entry in a client's record to document client contacts, the delivery of services, and [or] how [well] the goals of a client's treatment plan are being addressed.

[(43)] "Referral plan" means the identification in writing of a client's needs that cannot be met by a program and the program and community resources to which a client is referred.]

(41) [(42)] "Regional program manager" means an individual responsible for the management of a program's county offices if [when] a program operating statewide has multiple county locations.

[(43)] "Residential treatment" means a residential service provided postwithdrawal to an individual with a primary or secondary diagnosis of alcohol or other drug abuse or dependency, that is designed to reduce or eliminate alcohol or other drug abuse dependency.

(44) "Residential transitional treatment" means a residential program that provides an organized therapeutic environment in which an individual may receive vocational rehabilitation, outpatient counseling, case management, and other support services including assistance seeking employment.]

(42) "Residential transitional living" means a therapeutic group setting, where counseling is provided either on site by staff or off site, and where a client resides twenty-four (24) hours a day, and makes a social and vocational adjustment prior to returning to family or independent living in the community.

(43) "Residential" means a set of organized and intensive individual and group therapeutic activities, provided in a twenty-four (24) hour setting, which assists a client in recovering from alcohol or other drug abuse.

(44) [(45)] "Revocation" means withdrawal by the division of a program's or an individual's right to deliver services to a client convicted of DUI.

(45) [(46)] "Self-help group" means activities provided in a self-directed peer group setting, for a person recovering from alcohol or [and] other drug abuse or the effects of another person's alcohol or other drug abuse, where support and direction in achieving or maintaining an alcohol and drug-free lifestyle or in learning to cope with a problem related to another person's alcohol or other drug abuse is provided. [provision of support services that address the effects of another person's alcohol and other drug abuse and the emphasis on a positive direction in achieving and maintaining an alcohol and drug-free lifestyle or in learning to cope with a problem related to another person's alcohol and other drug abuse.]

(46) [(47)] "Sliding fee scale" means a program's formula for providing a service to a client at a rate lower than the program's maximum published fee.

(47) "Treatment" is defined in KRS 222.005(13).

(48) "Treatment plan" means the written product of the process by which a client and a clinician identify and rank a client's problems needing resolution, establish agreed-upon immediate and long-term specific and measurable goals and decide on a treatment process and the resources to be utilized.

(49) [(48)] "Twenty (20) hour education" means an education curriculum:

(a) For first offenders assessed as low risk, that do not have an alcohol or other drug problem requiring treatment; or

(b) As a supplement to treatment for a first or multiple offender assessed as needing treatment.

[(49)] "Treatment" means services delivered in an [a licensed] outpatient, intensive outpatient, inpatient, residential, residential transitional, detoxification or halfway house program licensed to deliver alcohol and other drug treatment services.

(50) "Treatment plan" means the written product of the process by which a client and a clinician identify and rank a client's problems needing resolution, establish agreed-upon immediate and long-term specific and measurable goals and decide on a treatment process and the resources to be utilized.]

(50) [(51)] "Uniform citation" is defined in KRS 431.450. ["Cabinet" means the Cabinet for Human Resources, Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

(2) "Division" means the Cabinet for Human Resources, Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601.

(3) "DUI" means driving while under the influence of alcohol, drugs or intoxicating substances.

(4) "Program" means any public, private or government entity eligible to deliver DUI assessment, education and treatment services.

(5) "Certification" means the process by which the Division of Substance Abuse recognizes and authorizes any program, assessor or instructor to provide DUI services.

(6) "Services" means the level of care appropriate for a client based on an evaluation of the client's needs.

(7) "Assessment" means the procedure used to obtain information about a client's use of alcohol and other drugs and to determine the problems and needs of a client in order to recommend appropriate services.

(8) "Education" means a course which delivers factual information about alcohol and other drugs to increase awareness, knowledge, and change a client's attitude and behavior in relation to substance abuse.

(9) "Treatment" means outpatient, intensive outpatient, inpatient, residential, or detoxification services provided to clients in need of substance abuse services.

(10) "Program administrator" means the person responsible for the services provided in a program and who has responsibility for determining if a client satisfactorily completes all required services.

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(11) "Certified assessor" means a person who has been trained and approved by the division to evaluate the needs of clients and to recommend appropriate services.

(12) "Certified instructor" means a person who has been trained and approved by the division to provide education services in a DUI program.

(13) "Approved curriculum" means:

(a) "Talking about alcohol driving unimpaired nine (9) hour";

(b) "Talking about alcohol driving unimpaired twenty (20) hour";

(c) "Kentucky alcohol and other drug education program nine (9) hour"; and

(d) "Kentucky alcohol and other drug education program twenty (20) hour."

(14) "Computerized screening instrument" means the Kentucky driver risk inventory (DRI).

(15) "Case management" means an administrative function to insure coordination of client services and continuity of care.

(16) "Court" means the court where a client is convicted of DUI.

(17) "Client" means any individual receiving services in a DUI program.

(18) "First offender" means a person convicted of DUI for the first time within a five (5) year period.

(19) "Multiple offender" means a person convicted of a second or subsequent DUI within a five (5) year period.

(20) "Satisfactorily completed" means a client has fulfilled all requirements of the program and has received maximum benefits from the services received.

(21) "DUI services" means assessment, education, or treatment services provided by an eligible DUI program.

(22) "Facility" means the physical area, including the grounds and buildings where program functions take place.]

Section 2. Licensing Requirements. (1) ~~[It shall be unlawful for]~~ An individual or other entity **shall not** [desiring] [to] provide DUI assessment, education or treatment services unless the service [it] is in a [certified] program or facility:

(a) Licensed by [as an assessment facility and program, education facility and program, or treatment facility and program shall first obtain a license from] the cabinet in accordance with 908 KAR 1:370;

(b) [the drug abuse treatment and education center (DATE center) regulations, 908 KAR 1:150 through 908 KAR 1:260; and the non-medical alcohol treatment and education center (NATE center) administrative regulations, 908 KAR 1:010 through 908 KAR 1:140;

(2) Programs Conducted in a [facility established and maintained by a] licensed federal hospital [shall be exempt from state licensing requirements, as such facilities are created] subject to federal licensure and regulatory requirements pursuant to [in accordance with] 38 USC 301, 38 USC 1720A, 38 USC 7333, or [and] 38 USC 7334; or

(c) [(3) Programs] Conducted on the grounds of [in a facility established and maintained by] a hospital licensed by the cabinet pursuant to 902 KAR 20:160 or 902 KAR 20:180 [shall be exempt from obtaining a DATE or NATE center license in accordance with 908 KAR 1:160, Section 1(1)(c)].

(2) A hospital licensed by the cabinet pursuant to 902 KAR 20:160 or 902 KAR 20:180 that operates a DUI program in a facility off the grounds of the hospital shall have the separate facility where a DUI program is located licensed by the cabinet in accordance with subsection (1) of this section.

(3) A DUI program established, conducted, and maintained in a jail, prison, or correctional facility shall be licensed by the cabinet in accordance with subsection (1) of this section. [(4) The cabinet shall notify the division in writing when an individual or entity:

(a) Is granted a license as a DATE or NATE center;

(b) Has stated in its application that it desires to provide DUI services; and

(c) If its license has been renewed, suspended or revoked.]

Section 3. Program Certification Requirements. (1) General requirements.

(a) A licensed entity desiring to provide DUI assessment or education services shall be certified by the division as a DUI program before providing a service at any location.

(b) A certified DUI program may deliver assessment, education

or treatment services statewide if the program is licensed in accordance with Section 2 of this administrative regulation [it is licensed by the cabinet] and is certified by the division at each service location.

(c) A program may be certified to provide only assessment or only education services or both assessment and education services at a location.

(d) The division shall not certify a program desiring to provide only education at all locations.

(e) A treatment program or facility licensed by the cabinet to provide treatment pursuant to 902 KAR 20:160, [or] 902 KAR 20:180, or 908 KAR 1:370, an out-of-state treatment facility licensed by the state where the facility is located, or [and] a federally-licensed hospital may provide treatment services to a client referred by a certified DUI program without receiving DUI program certification from the division.

(f) The division shall notify a program, in writing, if certification is issued, renewed or revoked.

(g) The division shall notify the Transportation Cabinet, in writing, if an action is taken to revoke a DUI program's certification or [and] if an action by the division is appealed by a program.

(h) If more than one (1) certified DUI program is operated at the same location, each program shall maintain a separate organizational identity by:

1. Conspicuously posting [a sign conspicuously] in a public area:

a. Each program's license;

b. Each program's Program Certification Certificate; and

c. A sign showing the name of each [the] program;

2. ~~[Posting each program's license conspicuously in a public area;~~

3. ~~Using a separate logo or letterhead on written materials;~~

3. ~~4.] Maintaining client records in a separate and secure cabinet [separately]; and~~

4. Conducting DUI services separate from another DUI program located at the same location.

(i) A certified DUI program shall conspicuously post, in a public area of each facility where DUI services are delivered by the program, its license and Program Certification Certificate.

~~[5. Delivering services separately.]~~

(i) ~~[(4)]~~ A certified DUI program shall:

1. Deliver education and treatment services in a facility that provides at least seven (7) square feet of individual space for a client while he is receiving a service;

2. Maintain an alcohol and other drug-free work place;

3. Obtain a criminal background check from the Administrative Office of the Court's Courtnet Disposition System for the administrator, and all clinical and certified staff, that begin working in the program after the effective date of this administrative regulation;

4. Ensure that an owner, program administrator, and all clinical and certified staff that begin working in a program after the effective date of this administrative regulation have not been released from incarceration or probation or parole for the conviction of a violent crime, hate crime, or sex crime within two (2) years from his date of employment with the program; and

5. Maintain professional malpractice insurance to cover all clinical and certified staff in the minimum amount of \$100,000 per occurrence.

(2) Staffing requirements.

(a) General requirements.

1. A program shall have staff certified by the division in accordance with Section 4 of this administrative regulation to deliver assessment and education services.

2. Certified, clinical or [and] administrative staff shall not currently be employed as:

a. A law enforcement officer;

b. A correctional officer, other than in a certified DUI program that is located in a jail, prison or correctional facility;

c. A probation and parole officer;

d. An attorney;

e. An employee of the Administrative Office of the Courts;

f. An employee of the division; or

g. A judge.

(b) Program administrator.

1. A program administrator shall be responsible for the services delivered in a program and knowledgeable of:
 - a. The requirements established [standards] in this administrative regulation, KRS 189A.040 and 189A.045;
 - b. In a federally assisted program, the requirements for confidentiality established in [pursuant to] 908 KAR 1:320; and
 - c. In a nonfederally assisted program, the requirements for confidentiality established in [pursuant to] KRS 222.271(1).
2. A program administrator shall ensure:
 - a. A program implements and complies with all applicable regulations and statutes;
 - b. Staff having primary responsibility for delivering DUI services, including regional program managers, comply with:
 - (i) The requirements established [standards] in this administrative regulation, KRS 189A.040 and 189A.045;
 - (ii) In a federally assisted program, the requirements for confidentiality established in [pursuant to] 908 KAR 1:320; and
 - (iii) In a nonfederally assisted program, the requirements for confidentiality established in [pursuant to] KRS 222.271(1);
 - c. An individual involved in the operation of the program or in the delivery of client services engages in ethical practices and abides by the Code of Ethics contained on the Application for Program Certification or the Application for [DUI] Program Recertification, whichever is applicable [certification];
 - d. A program shall [does] not accept a client if a conflict of interest exists between the program and the client;
 - e. Staff providing assessment and education services are certified by the division and that they complete training required by the division; and
 - f. [Staff providing assessment, education, and treatment services are supervised in accordance with the requirements in subsection (3) of this section; and
 - g.] Attendance by a client is documented in the [a] client's record.
3. A program administrator shall:
 - a. [Maintain documentation of annual in-service training that the division requires of staff delivering DUI services;
 - b.] Investigate a complaint received from the division and shall, upon request, provide the division with records pertaining to the [a] complaint; and
 - b. Personally attend, or have a representative of his program [c.] attend, at least one (1) statewide DUI meeting annually. The division shall conduct [conducts] statewide DUI meetings on a semiannual basis.
- (c) Clinical services supervisor.
 - [1.] There shall be clinical supervision provided at all locations by a clinical services supervisor who [for each program location that] meets the requirements established in paragraph (d) or (f) of this subsection.
 - (d) Except as provided in paragraph (f) of this subsection, the clinical services supervisor shall be:
 1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089, who has 4000 hours of clinical work experience postcertification; or
 2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (e) of this subsection:
 - 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 licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;
 - d. Certified psychologist with autonomous functioning certified to function without supervision, in an area specified by

the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

- e. Certified psychologist, with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.056;
- f. Psychological associate with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.064;
- g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;
- h. Certified social worker with 6000 hours of postcertification clinical practice in psychiatric social work licensed by the Kentucky Board of Social Work in accordance with KRS 335.080;
- i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in psychiatric nursing from an accredited college or university and 6000 hours of clinical experience in psychiatric nursing;
- j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a bachelor's degree in nursing from an accredited college or university who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has 6000 hours of clinical experience in psychiatric nursing;
- k. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;
- l. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or
- m. Certified professional art therapist certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with the provisions of KRS 309.130.

(e) A certified or licensed professional meeting the requirements established in paragraph (d)2 of this subsection shall have:

1. Completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of assuming responsibility as a clinical services supervisor in a DUI program or within two (2) years immediately after assuming responsibility as a clinical services supervisor in a DUI program; and
2. 4000 hours of work experience in the alcohol and other drug treatment field postdegree.

(f) A person shall qualify as a clinical services supervisor under this administrative regulation if, on the effective date of this administrative regulation, the person:

1. Met the requirements for clinical services supervisor as established in 908 KAR 1:050 and 908 KAR 1:190;
2. Had been a clinical services supervisor for at least five (5) years; and
3. Was employed as a clinical services supervisor in a DUI program certified by the division.

(g) [One (1) of the following requirements:

- a. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089, with at least two (2) years full-time clinical work experience postcertification, and an academic degree if required for certification, from an accredited college or university;
- b. A certified or licensed professional, with at least two (2) years postdegree work experience in the alcohol and other drug treatment field, who has completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to assuming responsibility as a clinical services supervisor in a DUI program, and is one (1) of the following:
 - (i) 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;
 - (ii) 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.;~~

~~(iii) Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology pursuant to KRS 319.050;~~

~~(iv) Certified psychologist with autonomous functioning, certified to function without supervision, in an area specified by the Kentucky Board of Examiners of Psychology, pursuant to KRS 319.056;~~

~~(v) Psychological associate certified by the Kentucky Board of Examiners of Psychology to provide a service under the supervision of a licensed psychologist pursuant to KRS 319.064;~~

~~(vi) Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Examiners of Social Work pursuant to KRS 335.100;~~

~~(vii) Certified social worker certified by the Kentucky Board of Examiners of Social Work to provide a service under the supervision of a certified social worker licensed for the independent practice of clinical social work pursuant to KRS 335.080;~~

~~(viii) Registered nurse licensed by the Kentucky Board of Nursing pursuant to KRS Chapter 314 with a masters degree in psychiatric nursing from an accredited college or university;~~

~~(ix) Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing pursuant to KRS 314.042;~~

~~(x) Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists pursuant to KRS Chapter 335;~~

~~(xi) Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors pursuant to KRS Chapter 335; or~~

~~(xii) Certified art therapist certified by the Kentucky Board of Art Therapists pursuant to KRS 309.130;~~

~~2.} A clinical services supervisor shall complete:~~

~~1. A division approved twelve (12) hour training in clinical supervision, within six (6) months of assuming responsibility as the clinical services supervisor in a DUI program, or within one (1) year [six (6) months] of the effective date of this administrative regulation, whichever is later; and~~

~~2. [shall complete] Twenty (20) hours of training in alcohol and other drug abuse treatment annually.~~

~~(h) [3.] A clinical services supervisor shall assist a program administrator in the investigation of a complaint against a program if a complaint concerns an assessment, education, or [a] treatment service.~~

~~(3) [Supervision requirements:~~

~~(a) General requirements:~~

~~1. A clinical services supervisor shall supervise certified and clinical staff delivering assessment and treatment services;~~

~~2. A clinical services supervisor shall sign an agreement stating he will not supervise his spouse, live-in partner, child, stepchild, sibling, parent, stepparent, grandparent, grandchild, aunt, uncle, niece, nephew, or in-law;~~

~~3. A clinical services supervisor shall develop annually an individual written plan of supervision for an assessor and clinician he supervises that:~~

~~a. Reflects a staff member's strengths and weaknesses; and~~

~~b. States measurable objectives designed to assist a staff member to:~~

~~(i) Improve the quality of services delivered to a client; and~~

~~(ii) Develop skill and knowledge of the twelve (12) core functions of an alcohol and drug counselor established by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc. necessary for the level of services the staff member delivers;~~

~~4. The individual providing supervision shall document the supervision after each session and include an attendance record and the minutes of a group supervision session;~~

~~(b) Supervision of assessors. A clinical services supervisor shall provide a certified assessor who meets the requirements in Section 4 (2)(a)3 of this administrative regulation with at least four (4) hours of face-to-face individual or group supervision monthly that includes:~~

~~1. Observation of a clinical interview;~~

~~2. Review and cosigning of assessments;~~

~~3. Review of progress notes;~~

~~4. Training in assessment, progress note documentation, and case coordination;~~

~~5. Bimonthly review of a record for a client completing education or treatment at another program for which the assessor is responsible for providing case coordination; and~~

~~6. Verification that the assessor is in compliance with the standards established in this administrative regulation, KRS 189A.040, 189A.045 and with his professional continuing education requirements;~~

~~(c) Supervision of instructors;~~

~~1. A program administrator shall ensure that a certified instructor receives supervision in accordance with a plan of supervision developed by the program;~~

~~2. A program's plan of supervision shall include:~~

~~a. The designation of an individual familiar with a curriculum who will be responsible for providing supervision;~~

~~b. The method and content of supervision to include at least the observation of an instructor delivering a curriculum;~~

~~c. The length and frequency of a supervisory session;~~

~~d. A system for providing feedback, consultation and training if needed; and~~

~~e. Verification that an instructor is in compliance with the standards in this administrative regulation, KRS 189A.040, 189A.045 and with his professional continuing education requirements;~~

~~(d) Supervision of clinicians;~~

~~1. A clinical services supervisor shall provide at least four (4) hours of face-to-face individual or group supervision monthly to a clinician meeting the requirements for an assessor in Section 4(2)(a)3 of this administrative regulation who provides treatment to a client convicted of DUI;~~

~~2. The supervision shall include:~~

~~a. Review of a plan of supervision;~~

~~b. Treatment plan review and cosigning of treatment plans;~~

~~c. Observation of an individual or group treatment session at least semiannually;~~

~~d. Review of records and progress note documentation;~~

~~e. Case consultation; and~~

~~f. Verification that a clinician complies with the standards in this administrative regulation, KRS 189A.040, 189A.045 and with his professional continuing education requirements;~~

~~(4)} Application for program certification.~~

~~(a) An individual or other entity seeking DUI program certification shall:~~

~~1. Submit a completed Application for Program Certification [written application] to the division;~~

~~2. Submit a Program Survey Form [and all documentation required by the division] for each location where the applicant desires to provide DUI assessment, [or] education or treatment services and all documentation required by the division; and~~

~~3. Sign the application, with his signature certifying compliance with:~~

~~a. The Code of Ethics contained on the Application for Program Certification;~~

~~b. The requirements established in this administrative regulation, KRS 189A.040, and 189A.045; and~~

~~c. The requirements for confidentiality established in:~~

~~(i) 908 KAR 1:320 for a federally-assisted program; or~~

~~(ii) KRS 222.271(1) for a nonfederally-assisted program. [Sign a statement of ethical practice contained on the application for DUI program certification; and~~

~~4. Sign a statement contained on the application for DUI program certification agreeing to comply with:~~

~~a. The standards in this administrative regulation, KRS 189A.040 and 189A.045;~~

~~b. In a federally-assisted program, the requirements for confidentiality pursuant to 908 KAR 1:320; and~~

~~c. In a nonfederally assisted program, the requirements for confidentiality pursuant to KRS 222.271(1).]~~

~~(b) A Program Survey Form shall be completed for each location:~~

~~1. At the time of application for program certification or [and] recertification; or~~

~~2. [and] If a program opens a new location.~~

(c) A Program Survey Form shall contain:

1. Type of services provided;
2. Maximum fee for a service;
3. Name of the curriculum delivered at the [a] location;
4. Name and telephone number of the contact person for the [a] location;

5. Hours of operation when an office is staffed;

6. Address of the office where the client files for the [a] location are maintained and stored;

7. Name and title of each certified staff person providing assessment or education services at the [a] location; and

8. Name of the clinical services supervisor for the [a] location.

(d) The division shall review an application, verify the information and certify a program if the program [that meets the following requirements for certification]:

1. Submits a completed [an] Application for Program Certification to the division;
2. Is a licensed entity in accordance with Section 2 of this administrative regulation; and
3. Has staff certified by the division to deliver the required services.

(e) The division shall assign a program code and issue a letter and **Program Certification Certificate** [certificate of certification] if a program is certified. The program code shall be used for verification of program certification on correspondence to the court, the Transportation Cabinet, and the division.

(f) Each program location shall have an additional location code issued by the division that shall be used in conjunction with a program code to [and will] identify a program and the exact location where a service is delivered.

(g) Program certification shall be issued by the division for a period of two (2) years, and shall be [is] renewable unless previously revoked.

(h) Program certification shall not be transferred and shall apply [applies only] to the individual or other entity named in the Application for Program Certification or the Application for Program Recertification, whichever is applicable, [DUI program certification] approved by the division.

(i) If there is a change of ownership, the new owner shall apply for program certification in accordance with the requirements established in this subsection.

(4) [(5)] Application for program recertification.

(a) A program administrator shall request program recertification on a completed Application for Program Recertification [an application for DUI program recertification] at least thirty (30) calendar days prior to the expiration of his program's certification.

(b) If program certification expires, a program administrator shall [may] submit a completed Application for Program Recertification within sixty (60) calendar days of the expiration date [an application for DUI program recertification]. The program shall be considered a new applicant if the [an] Application for Program Recertification is not made within sixty (60) calendar days of the expiration date.

(c) If program certification lapses for sixty (60) calendar days or more, the division shall notify a program administrator, in writing, that the program is not eligible to deliver DUI services and the program shall:

1. Notify active clients in writing;
2. Refer a client and transfer case coordination responsibility of a client's case to a program of his choice; and
3. Submit to the division a list of active clients with a copy of each client's referral form stating the name of the program to which a client is referred.

(d) A program administrator shall meet the requirements established in subsection (2)(b)3b [e] of this section before a program is recertified.

(5) [(6)] Denial of program certification and recertification. The division shall [may] deny a program's application for certification or recertification if:

- (a) A program fails to meet certification requirements;
- (b) Program certification has been denied or revoked by the division within the last three (3) years;
- (c) A current [The] owner, program administrator, clinical serv-

ices supervisor, or other principal had his assessor or instructor certification revoked by the division within the last three (3) years; or

(d) The division is in the administrative hearing process to revoke the assessor[,] or [the] instructor certification of a current [an] owner, program administrator, or clinical services supervisor.

(6) [(7)] Program changes.

(a) A program administrator shall notify the division and the cabinet, in writing, if there is a change in ownership, program name, or program location.

(b) [A program administrator shall notify the division, in writing, if an individual certified by the division as an assessor or instructor begins employment with a program or terminates employment with a program;

(c) A program administrator shall notify the division, in writing, on a Report of Change Form [that is incorporated by reference in this administrative regulation,] if there is a change at a location in:

1. Services delivered;
2. Maximum fee charged for a service;
3. Hours of operation when an office is staffed;
4. Location of client records;
5. Scheduling telephone number;
6. Contact person;
7. Clinical services supervisor; or [and]
8. Other program information printed in the DUI directory.

(7) [(8)] Records.

(a) General requirements.

1. A program shall designate on a Program Survey Form, at the time of application for program certification, where the client records for each location and the administrative records for the program will be maintained and stored.

2. A program administrator shall notify the division, in writing, on a Report of Change Form, if the [a] program changes the location where client or [and] administrative records are maintained and stored.

3. A program administrator shall ensure that written and electronic client and administrative records are:

- a. Stored in a locked cabinet or computer only accessible to authorized staff;
- b. Kept confidential;

(i) In a federally assisted program pursuant to 908 KAR 1:320; and

(ii) In a nonfederally assisted program pursuant to KRS 222.271(1);

c. Retained for at least five (5) years from the last date of service or action taken; and

d. If destroyed after a five (5) year period of retention, either [a record is] burned, shredded or deleted electronically in a manner that [and] is unrecoverable.

4. A program shall maintain a record of fees paid by a client.

(b) Administrative records. A program shall maintain administrative records that include:

1. Policy and procedure manual;
2. Copies of curricula, handouts, and videos;
3. Hours of operation for each location;
4. Fee schedule and means test for determining indigency;
5. [Record of indigent services delivered;
- 6.] Cabinet report from most recent licensure inspection;
6. [7.] Memoranda of understanding;
7. [8.] Copies of the division's certification letters for assessors and instructors on staff;
9. Clinical supervision reports;]
8. [10.] Complaint file; and
9. [11.] Assessment, education, and treatment rosters or sign in sheets; and
12. Documentation of all training and continuing education completed by staff].

(c) Client records.

1. A program shall [may] release a client's record or disclose confidential information about the client in accordance with the client's written permission through a signed authorization for release of information.

2. A program shall release a client's record, with the client's written authorization for release of information, if:

~~a. [the court orders a record released;] The division requests release of a record; or~~
~~b. A client is referred to another program for education or treatment services.~~
~~3. A program shall [if a program is unable to obtain a client's written authorization for release of information a program may] release a client's record upon receipt of a court order.~~
~~4. A program shall open a separate written or electronic record for a client at the time of assessment, or upon enrollment in education or admission to treatment, if the [a] client is referred to another program after receiving an assessment.~~
~~5. [4:] Client records shall include the following forms signed by the [a] client:~~
~~a. Client rights statement;~~
~~b. Client notice of confidentiality and confidentiality agreement;~~
~~c. Fee agreement; [and]~~
~~d. Authorization for release or disclosure of information; and~~
~~e. As applicable, the information required by subparagraphs 6, 7, or 8 of this paragraph.~~
~~6. [5:] If a client receives an assessment, his record shall include:~~
~~a. The items required by [established in] subparagraph 5 [4] of this paragraph; [and:]~~
~~b. [a:] An AOC 494 form (Notice to Attend Alcohol Driver Education Program) [that is incorporated by reference in this administrative regulation] or a court order;~~
~~c. [b:] Uniform citation;~~
~~d. [c:] Kentucky DUI Assessment Instrument printout;~~
~~e. [d:] Clinical interview and interview notes;~~
~~f. [e:] Freedom of choice statement;~~
~~g. [f:] Confirmation and acceptance of assessment statement;~~
~~h. [g:] Referral agreement, if applicable;~~
~~i. [h:] Certificate of enrollment;~~
~~j. [i:] Case coordination contacts; and~~
~~k. [j:] Certificate of completion or notice of noncompliance. [:]~~
~~7. [6:] If a client receives education, his record shall include:~~
~~a. The items required by [established in] subparagraph 5 [4] of this paragraph; [and:]~~
~~b. [a:] An education agreement signed by the [a] client; and~~
~~c. [b:] A record of attendance.~~
~~8. [7:] If a client receives treatment, his record shall include:~~
~~a. The items required by [established in] subparagraph 5 [4] of this paragraph; [and:]~~
~~b. [a:] A treatment plan signed by the [a] client and his [a] clinician and treatment plan reviews signed by [a client and] his [a] clinician;~~
~~c. [b:] Progress notes signed and dated by his [a] clinician, recorded after each client contact documenting [and if] the type of contact or [is the delivery of a professional service, include the] service provided, [an observation of the client's response to the service;] and the client's participation [progress toward meeting the goals and objectives of his treatment plan]; and~~
~~d. [c:] A discharge summary documenting completion or non-compliance signed and dated by his [a] clinician.~~
~~(8) [(9)] Fees.~~
~~(a) The fee for assessment, education, or [and] treatment shall be established by a program and paid by a client pursuant to KRS 189A.040.~~
~~(b) The fee schedule published in the DUI directory[;] shall be posted in a public area of each facility visible to a client.~~
~~(c) The fee a client is charged shall not exceed a program's maximum published fee.~~
~~(d) A program shall explain the program's fee and payment [program] requirements [for the payment of a fee] to the [a] client at the time of his assessment or upon enrollment in education or admission to treatment, if the [a] client is referred to another program after receiving an assessment.~~
~~(e) A program shall not charge a client a fee unless the client has signed a fee agreement.~~
~~(f) A program's sliding fee scale shall be based on a means test and applied objectively to a client to determine a client's ability to pay.~~
~~(g) If a client states that he is an indigent person, [he is indi-~~

~~gent] a program shall refer him to the court to have an affidavit of indigency executed by the court. [and] A program shall:~~
~~1. Accept a client determined indigent by the court; and~~
~~2. Deliver services free of charge or for the amount specified by the court.~~
~~[(h) A DUI program shall maintain a written record showing the number of indigent clients served and this information shall be made available to the division upon request.]~~
~~(9) [(10)] DUI directory.~~
~~(a) The division shall:~~
~~1. Publish annually on July 1, of each year, a directory of all certified DUI programs; and~~
~~2. [may] Issue additions, revisions, and corrections quarterly on October 1, January 1, and April 1, of each year as changes occur.~~
~~(b) The directory shall include DUI programs certified to provide DUI assessments and shall be distributed to:~~
~~1. District court judges;~~
~~2. Circuit clerks;~~
~~3. Certified DUI programs; and~~
~~4. The public upon request.~~
~~(c) The directory shall have a county section that includes:~~
~~1. The location of each program having an assessment center in a county;~~
~~2. The services provided at each program location;~~
~~3. The maximum fee for a service; and~~
~~4. Specific terms and conditions related to DUI services that are required by a program.~~
~~(d) A program administrator shall report changes for the directory to the division, on a Report of Change Form, at least thirty (30) calendar days prior to the publication dates established in paragraph (a) of this subsection. If the division does not receive a Report of Change Form by the deadline date, the division shall [may] hold a change until the next scheduled publication of the directory. [Program certification requirements:~~
~~(a) A licensed individual or entity, desiring to provide DUI assessment or education services shall be certified by the division.~~
~~(b) A properly licensed treatment facility may provide DUI treatment services without receiving program certification from the division.~~
~~(c) A certified program may operate statewide if it is properly licensed and certified in all service locations.~~
~~(d) All service locations shall be subject to the same qualifications as the central office location.~~
~~(e) A program may be certified to provide assessment, or education services or assessment and education services.~~
~~(f) A program shall have at least one (1) individual on staff who has been certified by the division, to be a certified program.~~
~~(g) Program administrator:~~
~~1. The program administrator shall be knowledgeable of the requirements for operating a DUI program and is responsible for the services delivered by the program.~~
~~2. The program administrator shall be responsible for insuring that all staff having primary responsibility for the delivery of DUI services, are knowledgeable of the DUI law and administrative regulation.~~
~~(2) Application for program certification; program survey form; and clinical services supervisor qualifications:~~
~~(a) Individuals or entities seeking program certification shall:~~
~~1. Submit a written application to the division;~~
~~2. Sign a statement of ethical practice contained on the application for DUI program certification;~~
~~3. Agree to abide by the provisions of this administrative regulation; and~~
~~4. Submit a program survey form for each location where the applicant desires to provide DUI assessment or education service;~~
~~(b) A program survey form shall be completed at the time of the initial application for program certification and whenever a program opens a new clinic location. The program survey form shall contain the:~~
~~1. Types of services provided;~~
~~2. Fees charged for those services;~~
~~3. Names and titles for all certified staff which provide assessment or education services at that location; and~~
~~4. Name of the clinical services supervisor which shall be at that location;~~

(c) There shall be a clinical services supervisor for each program location who holds:

1. A masters degree or greater in psychiatry, psychology, social work;
2. A nursing degree with a specialty in psychiatric or mental health nursing or other mental health program; or
3. A certified chemical dependency counselor (CCDC);
4. In addition to the education requirement in subparagraphs 1 through 3 of this paragraph, the clinical services supervisor shall have eighty (80) clock hours of training in chemical dependency treatment within a maximum of four (4) years prior to employment with the program; and shall maintain twenty (20) clock hours of continuing education in chemical dependency treatment annually.

(d) The division shall issue a three (3) digit code when a program is certified:

(e) The name and location of each certified program shall be included on any published list of certified programs:

(3) Program certification directory:

(a) The division shall publish an annual certification directory on July 1 of each year, listing:

1. Programs certified to provide assessment services;
2. Fees charged; and
3. Program service location addresses.

(b) The division shall provide the directory to:

1. District court judges;
2. Circuit court clerks;
3. Certified programs; and
4. The public upon request.

(c) The division may issue additions, revisions and corrections to the directory on October 1, January 1, and April 1 each year:

1. Programs shall report additions, revisions and corrections on a division "Report of Change Form".

2. "Report of Change Forms" shall be submitted at least thirty (30) days prior to the publication dates in this paragraph.

(4) The application for DUI program certification, the program survey form, and the report of change form are hereby incorporated by reference. Copies of the application for DUI program certification, the program survey form, and the report of change form may be inspected or obtained at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, Fair Oaks Lane, Lexington Square, 4th Floor, Frankfort, Kentucky 40601 between the hours of 8 a.m. through 4:30 p.m., eastern time, Monday through Friday.

(5) Expiration and renewal of program certification. The program certification shall remain in effect for a period of two (2) years and is renewable for a like period, unless earlier suspended or revoked. The program shall request recertification, in writing, thirty (30) days prior to the expiration of certification. If certification has lapsed for more than sixty (60) days, programs shall submit a new application and shall be considered as a new applicant. The division shall notify the program, in writing, when certification is issued, renewed, suspended or revoked.

(6) Program certification not to be transferred. The program certification shall apply only to the program so certified and is not transferable. The program shall be responsible for notifying the division, in writing, when there is a change in ownership or control, a change in location, a change in the types of services provided, or a change in fees charged for such services. If there is a change of ownership, a new application for certification shall be made to the division in the same manner as if the owner were applying for a new program.

(7) Program certification referrals. A program shall accept referrals from other programs or from the courts:

- (a) A program may refuse a client referral because of:
 1. Inadequate staff;
 2. Lack of an appropriate service; or
 3. Because of a client waiting list.
- (b) With a client's written authorization for release of information copies of the DUI assessment and other client records pertinent to the client's treatment shall be released by the referring agency.

(c) The assessment results and any interview notes or other information pertaining to the assessment shall be confidential and shall remain in the client's file.

(d) A program making or receiving client referrals shall execute a

written memorandum of understanding (MOU) with all other programs involved in the referrals:

1. The MOU shall fully outline the duties, responsibilities and terms of agreement to all referring programs;

2. The terms of agreement in the MOU shall remain in effect until one (1) of the programs terminates the agreement.

(8) Inspections by the division. The division shall conduct at least one (1) inspection of the program's facility annually to determine whether the program is in compliance with the applicable certification standards:

(a) The division may conduct more than one (1) inspection annually:

(b) Inspections may be made at any of the program's locations and may be unannounced.

(c) The division shall notify the program, in writing, within sixty (60) days of the result of the inspection.

(d) The division shall provide a copy of the results of its inspection to the program within sixty (60) days:

(e) The division may inspect the offices, files, client records and other materials of any certified program to ensure compliance with this administrative regulation:

1. The program shall:

- a. Cooperate with representatives of the division; and
- b. Provide all records and materials requested.

2. The program shall allow division representative to attend and observe any assessment or education session conducted by the program during the course of its inspection.

(9) Client and program records. Client records shall contain all information pertinent to the provision of program services:

(a) Program records shall be confidential:

(b) Program records shall not be released, unless:

1. The client consents in writing;
2. The court orders the records released; or
3. The division requests release of the records as a part of the compliance review.

(c) Client and program records shall be maintained for a minimum of five (5) years after which the records may be destroyed.

(d) Records may be destroyed by burning or shredding after the five (5) year record retention period in paragraph (c) of this subsection:

(10) Revocation or suspension of program certification. The division shall suspend or revoke the certification of any program that is not in compliance with the applicable certification standards. The division shall notify the program, in writing, of any pending certification action, and shall provide written reports citing observed deficiencies as they relate to the certification standards. The program shall submit an acceptable plan of correction for cited deficiencies to the division within ten (10) working days from the date the program receives the inspection report. The revocation or suspension of program certification shall be effective on the date stated in the notice sent to the program by the division. Programs shall have the right to appeal any suspension or revocation of their program certification. Hearing procedures involving certification shall be conducted in accordance with this administrative regulation.]

Section 4. Assessor and Instructor Certification Requirements [of Individual DUI Assessors, Instructors and Education Service Providers]. (1) General requirements.

(a) Only an individual holding valid certification from the division shall provide DUI assessment or education services. An individual certified by the division shall not provide DUI assessment or education services except in a program that is certified by the division.

(b) An individual desiring to provide assessment or education services shall apply for certification to the division. To be certified, an individual shall:

1. [.] Meet the requirements for certification established in this section; and

2. Complete the training required by subsection (3) of this section [the division and be certified by the division].

(c)1. [(b)] Certification for an assessor or [and an] instructor shall be for a period of five (5) years from the date of an individual's initial certification as an assessor or instructor.

2. An assessor or instructor shall renew his certification in

accordance with subsection (4) of this section every five (5) years.

3. Certification that is not renewed or revoked prior to the end of the five (5) year period shall automatically expire at the end of that time period. ~~[It may be renewed for a like period, and shall expire on the fifth anniversary date unless previously revoked.]~~

~~[(c) Only an individual holding valid certification from the division shall provide DUI assessment or education services and an individual certified by the division shall not provide DUI assessment or education services except in a program that is certified by the division.]~~

(2) Credentials for assessors and instructors.

(a) Assessors. An individual desiring certification as an assessor shall complete twenty (20) hours of training in alcohol and other drug abuse counseling annually and, except as provided in paragraph (c) of this subsection, shall be:

1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089;

2. An individual who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (b) of this subsection:

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 licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;

d. Certified psychologist with autonomous functioning certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

e. Certified psychologist certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

f. Psychological associate certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.064;

g. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Social Work in accordance with KRS 335.100;

h. Certified social worker certified by the Kentucky Board of Social Work in accordance with KRS 335.080;

i. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in nursing from an accredited college or university;

j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with one (1) of the following combinations of education and work experience:

(i) Bachelor of science in nursing from a four (4) year program from an accredited college or university and 2000 hours of clinical work experience in the substance abuse or mental health field;

(ii) Diploma graduate in nursing from a three (3) year program and 4000 hours of clinical work experience in the substance abuse or mental health field; or

(iii) Associate degree in nursing from a two (2) year program from an accredited college or university and 6000 hours of clinical work experience in the substance abuse or mental health field;

k. Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing in accordance with KRS 314.042;

l. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;

m. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or

n. Certified professional art therapist certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with the provisions of KRS 309.130; or

3. An individual who will meet the requirements of a licensed or certified professional established in subparagraph 1 or 2 of this paragraph within three (3) years of the date of his application for certification as a DUI assessor or the effective date of this administrative regulation, whichever is later, and who has:

a. A masters degree from an accredited college or university in a program that required completion of a clinical practicum; or

b. A bachelors degree or greater from an accredited college or university, plus one (1) year full-time supervised clinical work experience in the licensed treatment program where the individual is currently employed.

(b) A certified or licensed professional meeting the requirements established in paragraph (a)2 of this subsection shall have completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of his application for DUI assessor certification.

(c) A person shall qualify as a DUI assessor under this administrative regulation if, on the effective date of this administrative regulation, the person:

1. Met the requirements for a certified DUI assessor established in this administrative regulation as those requirements existed on January 1, 2000;

2. Had been a certified DUI assessor for at least five (5) years; and

3. Was employed as a certified assessor in a DUI program certified by the division. ~~[meet one (1) of the following requirements:~~

~~1. A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089, and an academic degree if required for certification, from an accredited college or university; or~~

~~2. A certified or licensed professional, who [that] has completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of application for DUI assessor certification [assuming responsibility as an assessor in a DUI program] and is one (1) of the following:~~

~~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 licensed to practice psychology by the Kentucky Board of Examiners of Psychology pursuant to KRS 319.050;~~

~~d. Certified psychologist with autonomous functioning certified to function without supervision, in an area specified by the Kentucky Board of Examiners of Psychology pursuant to KRS 319.056;~~

~~e. Psychological associate certified by the Kentucky Board of Examiners of Psychology to provide a service under the supervision of a licensed psychologist pursuant to KRS 319.064;~~

~~f. Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Examiners of Social Work pursuant to KRS 335.100;~~

~~g. Certified social worker certified by the Kentucky Board of Examiners of Social Work to provide a service under the supervision of a certified social worker licensed for independent practice of clinical social work pursuant to KRS 335.080;~~

~~h. Registered nurse licensed by the Kentucky Board of Nursing pursuant to KRS Chapter 314 with a masters degree in psychiatric nursing from an accredited college or university;~~

~~i. Registered nurse licensed by the Kentucky Board of Nursing pursuant to KRS Chapter 314, working under the supervision of an independent practitioner, and with one (1) of the following combinations of education and work experience:~~

~~(i) Bachelor of science in nursing from a four (4) year program from an accredited college or university and one (1) year clinical work experience in the substance abuse or mental health field;~~

~~(ii) Diploma graduate in nursing from a three (3) year program and two (2) years clinical work experience in the substance abuse or mental health field; or~~

~~(iii) Associate degree in nursing from a two (2) year program from an accredited college or university and three (3) years clinical work experience in the substance abuse or mental health field;~~

~~j. Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing pursuant to KRS 314.042;~~

~~k. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists pursuant to KRS Chapter 335;~~

~~l. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors pursuant to KRS Chapter 335; or~~

~~m. Certified art therapist licensed by the Kentucky Board of Licensure of Art Therapists pursuant to KRS 309.130; or~~

~~3. An individual with a bachelors degree from an accredited college or university working under the supervision of a clinical services supervisor meeting the requirements in Section 3(2)(c)1 of this administrative regulation who is supervised in accordance with the requirements in Section 3(3)(b) of this administrative regulation;]~~

~~(d) [(b)] Instructors. An individual desiring certification as an instructor shall meet one (1) of the following requirements:~~

~~1. Have a bachelors degree or greater from an accredited college or university;~~

~~2. Have an associate degree [in human services] from an accredited college or university, with 4000 hours of [two (2) years full-time] supervised work experience in direct client services in the substance abuse field;~~

~~3. Have a high school diploma or a general education development equivalency certificate from a state board of education, with 8000 hours of [four (4) years full-time] supervised work experience in direct client services in the substance abuse field;~~

~~4. Meet [An individual who meets] the requirements for a certified assessor established in paragraph (a) or (c) of this subsection; or~~

~~5. Meet [An individual who meets] the requirements for a clinical services supervisor established in Section 3(2)(d) or (f) [(c)1] of this administrative regulation.~~

~~(3) Assessor and instructor certification and recertification training.~~

~~(a) General training requirements.~~

~~1. Only training approved by the division shall suffice as acceptable training for DUI assessor or instructor certification or recertification.~~

~~2. An individual desiring certification or recertification as an assessor or instructor shall submit a completed DUI Assessor Certification Application, DUI Assessor Recertification Application, DUI Instructor Certification Application, or DUI Instructor Recertification Application, whichever is applicable, [an application] to the division no later than the [a] deadline date indicated on the [a] training announcement issued by the division.~~

~~3. The application [An application for training] shall be accompanied by a copy of the following:~~

~~a. Official transcripts;~~

~~b. Diplomas;~~

~~c. Certificates;~~

~~d. Documentation of certification or licensure; and~~

~~e. Documentation of work experience.~~

~~4. Assessor or [and] instructor certification or recertification shall not be issued by the division until the fee for [a] training is paid in full.~~

~~5. If an individual making application for an assessor or instructor certification or recertification training fails to meet the established requirements, the division shall deny the application and notify the applicant, in writing, of the reason for the denial.~~

~~6. Within thirty (30) calendar days after completion of an assessor or instructor training, the division shall notify the program and the individual, in writing: [The division shall notify a program and an individual, in writing, within thirty (30) calendar days after completion of an assessor or instructor training of the following:]~~

~~a. That the [an] individual has:~~

~~(i) Satisfactorily completed a training;~~

~~(ii) [-has] Met the requirements for certification or recertification; and~~

~~(iii) [and has] Been certified or recertified; or~~

~~b.(i) Of an observed deficiency[;] as it relates to assessor or instructor certification;~~

~~(ii) The [-a] reason for withholding certification or recertification; and~~

~~(iii) The [-and-a] required corrective plan of action.~~

~~(b) Training requirements for assessors. An individual desiring certification as an assessor who [-that] has the necessary education and work experience[;] shall successfully complete the following requirements:~~

~~1. Attend and participate in all sessions of an assessor certification training;~~

~~2. Obtain an overall score of eighty (80) percent or better on performance in each of the following areas:~~

~~a. A written posttest on general course content;~~

~~b. A written posttest on the Kentucky DUI Assessment Instrument; and~~

~~c. A demonstration of ability to make an appropriate client referral based on a written case study;~~

~~3. Receive a written [the] recommendation from both the [of-a] trainer and the division representative; and~~

~~4. Sign the application, with his signature certifying compliance with:~~

~~a. The Code of Ethics contained on the application; and~~

~~b. The requirements established in this administrative regulation. [Sign and agree to comply with a statement of ethical practice on the application for assessor certification and agree to comply with the standards in this administrative regulation.]~~

~~(c) Training requirements for instructors. An individual desiring certification as an instructor who [-that] has the necessary education and work experience[;] shall successfully complete the following training requirements:~~

~~1. Attend and participate in all sessions of a division approved instructor certification training;~~

~~2. Complete training in one (1) or more of the curricula approved by the division;~~

~~3. Obtain a score of eighty (80) percent or better on a written posttest;~~

~~4. Demonstrate ability to make an oral presentation of assigned material;~~

~~5. Receive a written [the] recommendation from both the [of-a] trainer and the division representative; and~~

~~6. Sign the application, with his signature certifying compliance with:~~

~~a. The Code of Ethics contained on the application; and~~

~~b. The requirements established in this administrative regulation. [Sign and agree to comply with a statement of ethical practice on the application for instructor certification and agree to comply with the standards in this administrative regulation.]~~

~~(4) Assessor and instructor recertification.~~

~~An individual desiring recertification as an assessor shall:~~

~~1. Meet the requirements for a DUI assessor established in subsection (2)(a) or (c) of this section, on the date of his application for assessor recertification; and [or five (5) years from the effective date of this administrative regulation, whichever is later;]~~

~~2. Submit to the division a DUI Assessor Recertification Application [an application for recertification] and other required forms by October 1 of the calendar year in which his certification expires, [at least sixty (60) calendar days prior to the date of expiration of his assessor certification, and complete a training authorized by the division prior to the expiration date of his currently held assessor certification.]~~

~~(b) An individual desiring recertification as an instructor shall:~~

~~1. Meet the requirements for a DUI instructor established in subsection (2)(d) [(b)] of this section;~~

~~2. Submit to the division a DUI Instructor Recertification Application [an application for recertification] and all other required forms by October 1 of the calendar year in which his certification expires; [at least sixty (60) calendar days prior to the date of~~

expiration of his instructor certification;] and

3. Complete a training authorized by the division [prior to the expiration date of his currently held instructor certification].

(c) If an individual's assessor or instructor certification lapses for one (1) year or more, the individual's application for assessor or instructor recertification shall be processed as a new application and the individual shall complete the requirements for initial certification established in subsections (2) and (3) of this section [all additional training required by the division].

(d) If an individual does not meet the requirements for an assessor or instructor at the time of his application for recertification:

1. The division shall deny his application for recertification and notify the individual and the program, in writing, of the reason for denial; and

2. The individual's currently held certification shall expire pursuant to subsection (1)(c)3 [(b)] of this section.

(5) Revocation of assessor and instructor certification.

(a) The division shall [may] revoke assessor or [and] instructor certification if an individual:

1. Fails to comply with the requirements established [standards] in this administrative regulation;

2. Violates the Code of Ethics contained [standards of ethical practice contained in a statement] on the application for assessor or [and] instructor certification;

3. Is convicted while holding certification from the division of a violent crime, hate crime, or sex [sexual] crime; or

4. Falsifies information on an application for DUI certification or recertification.

(b) The revocation of an individual's assessor or instructor certification shall be for a period of three (3) years and shall be effective on the date stated in the [a] notice sent to an individual assessor or instructor by the division. [Individual certification. All individuals desiring to provide assessment or education services shall meet the requirements for certification and receive certification from the division.

(a) A program shall employ individuals who hold valid certification from the division to provide DUI assessment and DUI education services.

(b) It shall be the duty and responsibility of the program to insure that any individual in their employ providing DUI assessment services or DUI education services complete all training required by the division. Only training approved by the division shall suffice as proper training for DUI assessment and DUI education services.

(c) Application for DUI assessor or instructor.

1. An individual shall make application for DUI assessor or DUI instructor certification by submitting an application for DUI assessor or DUI instructor training:

2. The application shall be accompanied by a copy of all required:

- a. Transcripts;
- b. Diploma;
- c. Certificate;
- d. Certifications; or
- e. Proof of work experience.

(d) An individual certified by the division shall not provide DUI assessment services or DUI education services except in a program that is certified by the division.

(e) An individual providing DUI assessment or DUI education services for a program shall be considered an agent of the program and the program shall share the responsibility for all acts performed by the individual within the scope of employment.

(f) If a certified DUI assessor or DUI instructor terminates association with a program, the program shall notify the division in writing:

(2) Notification concerning completion of training:

(a) The division shall notify the program and the individual, in writing, within thirty (30) days after completion of a DUI assessor or DUI instructor training session that the individual has satisfactorily completed the training, has met all of the requirements for certification, and has been certified.

(b) The division shall notify the program and the individual, in writing, of any observed deficiencies, as they relate to DUI assessor and DUI instructor certification, within thirty (30) days after completion of a training session:

(c) The division shall state the reasons for withholding DUI assessor or DUI instructor certification and shall notify the program and the

individual of any required corrective plan of action.

(3) Minimum competency requirements for DUI assessor. An individual desiring certification as a DUI assessor shall demonstrate minimum competency in order to successfully complete the requirements for DUI assessor certification:

(a) An individual desiring certification as a DUI assessor shall have the following education or work experience:

1. Bachelor level degree in Human Services with certified chemical dependency counselor (CGDC) trainee status; working under clinical supervision where in weekly personal contact meetings, DUI assessments and treatment plans are reviewed and cosigned by a clinical services supervisor, as defined in subsection (2) of this section. Individuals holding CGDC trainee status have until their date of application for DUI assessor recertification to become a CGDC; or

2. Qualified mental health professional defined as:

- a. Psychiatrist – board certified or board eligible;
- b. Psychologist – licensed clinical psychologist, certified psychologist, or a psychological associate;
- c. Psychiatric nurse – or registered nurse with one (1) of the following combinations of education and experience:

(i) Master of science in nursing (MSN) with specialty in psychiatric or mental health nursing;

(ii) Bachelor of science in nursing (BSN) and a minimum of one (1) year of work experience in a mental health setting;

(iii) Three (3) year educational program diploma with two (2) years of work experience in a mental health setting;

(iv) Associate degree in nursing (ADN) with three (3) years of work experience in a mental health setting; or

d. Psychiatric social worker – MSW or MSSW; or

e. Professional equivalent as defined by the Division of Substance Abuse; or

3. Certified chemical dependency counselor (CGDC).

(b) An individual desiring certification as a DUI assessor shall successfully complete the following training requirements:

1. Attend and participate in all sessions of the assessor training;

2. Obtain an eighty (80) percent or above overall score on performance in the following areas:

- a. A written pretest and posttest on general course content;
- b. A written pretest and posttest on the computerized assessment instrument;
- c. A demonstration of ability to conduct an assessment interview; and
- d. A demonstration of ability to make a client referral based on a case study.

3. Receive the recommendation of the trainer(s) and the division's representative:

4. Sign a statement of ethical practice contained in the DUI assessor certification application packet and agree to abide by the standards stated in this administrative regulation.

(4) Minimum competency requirements for DUI instructor. An individual desiring certification as a DUI instructor shall demonstrate minimum competency in order to successfully complete the requirements for DUI instructor certification:

(a) An individual desiring certification as a DUI instructor shall have the following education or work experience:

1. Bachelors degree in a related field – social work, psychology, sociology, counseling, or education; or

2. Associate degree and two (2) years of work experience in the substance abuse field; or

3. High school diploma or a general education development (GED) equivalency certificate and four (4) years of work experience in the substance abuse field; or

4. Professional equivalent as defined by the Division of Substance Abuse.

(b) An individual desiring certification as a DUI instructor shall successfully complete DUI instructor training in one (1) of the curricula approved by the division. The individual shall attend and participate in all sessions of the training; take a pretest and obtain a score of eighty (80) out of a possible 100 points on a written posttest; demonstrate ability to make an oral presentation of assigned material; demonstrate group facilitation skills; receive the recommendation of the trainer(s) and the division's representative; and sign a statement of ethical practice contained in the DUI instructor certification application packet and

agree to abide by the standards stated in this administrative regulation.

(5) Incorporation by reference of DUI assessor and instructor application packet. The application packet for DUI assessor and DUI instructor certification is hereby incorporated by reference. Copies of the application packet may be inspected or obtained at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601 between the hours of 8 a.m. through 4:30 p.m., eastern time, Monday through Friday.

(6) Certification renewal and duration for DUI assessor and instructor.

(a) Certification for DUI assessors and DUI instructors shall be for a period of five (5) years from the effective date of this administrative regulation or from the date of the individual's initial certification as a DUI assessor or DUI instructor, whichever is longer, is renewable for a like period, and shall expire on the anniversary date of certification, unless earlier suspended or revoked.

(b) It shall be the duty and responsibility of the individual, to submit to the division, a completed recertification application and all other required forms, at least sixty (60) days prior to the date of expiration of the DUI assessor or DUI instructor certification.

(c) 1. An individual shall have achieved the standards for clinical services supervisor as defined in Section 3(2)(c) of this administrative regulation at the time of application for recertification as a DUI assessor.

2. If an individual has not met the requirements of Section 3(2)(c) of this administrative regulation the individual's application for DUI assessor recertification shall be denied and any previous DUI assessor certification shall expire. An individual desiring recertification as a DUI instructor shall attend, participate and demonstrate competency at a training seminar authorized by the division prior to application for DUI instructor recertification.

(d) If certification has lapsed for more than one (1) year, an individual's recertification application shall be processed as a new application, and the individual shall attend all additional training required by the division.

(e) An individual shall have the right to appeal any suspension or revocation of their DUI assessor or DUI instructor certification. Hearing procedures involving certification shall be conducted in accordance with this administrative regulation.]

Section 5. Certified Program, Assessor and Instructor Complaints and Program Monitoring. (1) Complaints.

(a) An individual may submit a complaint related [All complaints relating] to a certified program, a certified [DUI] assessor, or a certified [DUI] instructor, that is [are] not resolved by a [the] program through its [their agency] grievance procedure [procedures, shall be sent] to the division.

(b) A program shall be responsive and make an effort to resolve a client's complaint through its grievance procedure.

(c) A complaint shall be submitted to the division, in writing, on a Complaint Form or in a letter [and signed by the complainant].

(d) The division shall investigate a [the] complaint, notify the complainant and the program, in writing, of the results of the [an] investigation and take any necessary action.

(e) The division shall notify a professional licensing or certification board, in writing, at the conclusion of an investigation of the results of the investigation if a complaint is related to a violation of a standard established by a professional board.

(2) Program reviews.

(a) The division shall conduct periodic program reviews to determine if a program is in compliance with the requirements established [standards] in this administrative regulation, KRS 189A.040 and 189A.045.

(b) A program review shall [may] consist of one (1) or more of the following:

1. An interview with either a program administrator or a clinical services supervisor;
2. Completion of a Program Review Form;
3. A review of administrative records;
4. A review of client records;
5. Off site monitoring by division staff of completion records

submitted by a program;

6. Observation of an assessment, education, or treatment service;

7. Client interviews;

8. The review of other materials necessary to determine compliance with this administrative regulation, KRS 189A.040 and 189A.045; or [and]

9. Physical inspection of a program's facility.

(c) The division shall notify a program, in writing, at least two (2) weeks prior to the date of an announced program review.

(d) A program review may be made at any of a program's locations and may be unannounced.

(e) [(d)] A program shall:

1. Allow a division representative access to a facility;
2. Provide a copy of records and materials requested; and
3. Allow a division representative to attend and observe an assessment, education class, or treatment session conducted by the program.

(f) [(e)] The division shall issue a written report of findings and provide a copy of the results of its program review to the [a] program within ninety (90) calendar days after completion of a program review.

(3) Plan of correction.

(a) The division shall require a program that is not in compliance with the requirements established [standards] in this administrative regulation, KRS 189A.040 or 189A.045 to submit an acceptable plan of correction to the division within thirty (30) calendar [ten (10) working] days from the date a program receives a report of findings from the division.

(b) If a plan of correction is acceptable, the division may conduct a follow-up program review to ensure:

1. The plan of correction has been implemented; and
2. [-and] The program is in compliance with this administrative regulation, KRS 189A.040 and 189A.045.

(c) If the division conducts a follow-up program review, a copy of the Site Visit Follow-up Compliance Review form shall be issued to the program within ninety (90) calendar days of the completion of the follow-up program review.

(d) [(e)] If a plan of correction is not acceptable, the division shall [may] [shall] take action to revoke program certification.

(4) Voluntary closure.

(a) A program desiring to close voluntarily shall:

1. Notify the division, in writing, that it will voluntarily surrender its program certification by mailing to the division its Program Certification Certificate; [and:]

2. [1:] Stop accepting client referrals;
3. [2:] Notify active clients in writing;
4. [3:] Refer a client and transfer case coordination responsibility of a client's case to a program of [if] his choice; and
5. [4:] Submit to the division, within ten (10) calendar days of the notification made under subparagraph 1 of this paragraph, a list of active clients and a copy of the following information for each client:

a. Name, address and telephone number;

b. [Social Security number:] Date of birth and either the client's Social Security or driver's [drivers] license number;

c. DUI conviction number;

d. Date of assessment and referral information including level of care and agency to which a client is referred;

e. Number of sessions completed;

f. Date of last attendance; and

g. Reason for noncompliance if a client is noncompliant.

(b) 1. A program that voluntarily surrenders [withdraws] its certification in compliance [that complies] with the requirements established in paragraph (a) of this subsection may reapply for program certification at any time.

2. [(c)] The division shall [may] revoke the program certification of a program that voluntarily surrenders [withdraws] its certification if the program fails to comply with the requirements established in paragraph (a) of this subsection. [and] The revocation shall be in accordance with the requirements established in subsection (5)(c) of this section.

3. ~~[(d)]~~ If a program voluntarily ~~surrenders~~ ~~[withdraws]~~ its certification following an action by the division to revoke the program's certification, revocation shall be in accordance with subsection (5)(c) of this section.

(5) Revocation of program certification.

(a) The division shall ~~[may]~~ revoke the certification of a program that is not in compliance with the requirements established ~~[standards]~~ in this administrative regulation, KRS 189A.040 or 189A.045.

(b) The division shall immediately revoke a program's certification if it determines there is an immediate danger to clients.

(c) The revocation of program certification shall be:

1. For a period of three (3) years; and

2. ~~[shall be]~~ Effective on the date stated in the [a] notice sent to the [a] program by the division.

(d) If the division revokes program certification, a program shall:

1. Stop providing DUI services;

2. Stop accepting client referrals;

3. Notify active clients in writing;

4. Refer a client and transfer case coordination responsibility of a client's case to a program of his choice; and

5. Submit to the division, within ten (10) calendar days of the notification from the division, a list of active clients and a copy of the following information for each client:

a. Name, address and telephone number;

b. ~~[Social Security number;]~~ Date of birth and either the client's Social Security or driver's ~~[drivers]~~ license number;

c. DUI conviction number;

d. Date of assessment and referral information including level of care and the name of the program to which a client is referred;

e. Number of sessions completed;

f. Date of last attendance; and

g. Reason for noncompliance if a client is noncompliant.

Section 6. Assessment Requirements. (1) Assessment process.

(a)1. Except as provided in subparagraph 2 of this paragraph, a program providing assessment services shall administer the Kentucky DUI Assessment Instrument to a client receiving a DUI assessment. A program may use supplemental assessments in addition to the Kentucky DUI Assessment Instrument.

2. A program shall have ~~[no longer than]~~ six (6) months from the effective date of this administrative regulation to comply with the requirement that the Kentucky DUI Assessment Instrument shall be administered in every DUI assessment. During this six (6) month transitional period, a program shall meet the requirements for a DUI assessment established in:

a. This administrative regulation as those requirements existed on January 1, 2000; or

b. Subparagraph 1 of this paragraph.

(b) The Kentucky DUI Assessment Instrument printout generated at a client's assessment~~[-]~~ shall:

1. Be signed and dated by the ~~[an]~~ assessor and [a] client;

2. Contain comments by the ~~[an]~~ assessor explaining the referral decision; and

3. Be placed in the [a] client's file at least thirty (30) ~~[within three (3)]~~ calendar days after the [a] client's assessment.

(c) An assessment shall be conducted:

1. At a program's certified location; or

2. ~~[-except]~~ If a court orders an assessment of an individual that is incarcerated, ~~[the assessment may be conducted]~~ in a jail or a prison.

(d) A DUI assessment shall include:

1. Administration of the Kentucky DUI Assessment Instrument;

2. A private face-to-face clinical interview, using either the assessor's own clinical interview or the structured interview provided in the Kentucky DUI Assessment Instrument, with the findings of the interview ~~[either]~~ recorded on the check list provided in the Kentucky DUI Assessment Instrument;

3. Consideration of referral options and the [a] client's resources that are documented in the Kentucky DUI Assessment Instrument;

4. A determination of the severity of the [a] client's problem;

5. Referral to a program of the client's choice that offers a service at the level of care appropriate to the severity of the client's problem; and

6. The cosigning by the [a] client and ~~[an]~~ assessor of the following forms:

a. Fee agreement;

b. Client rights statement;

c. Confidentiality statement;

d. Freedom of choice statement and a referral agreement;

e. Confirmation that a client received ~~[and acceptance of]~~ an assessment statement;

f. Authorization for release of information;

g. Certificate of enrollment; and

h. Kentucky DUI Assessment Instrument printout~~[-and~~

i. A referral agreement].

(e)1. Except as provided in subparagraph 2 of this paragraph, a DUI assessment shall be conducted by an assessor holding valid certification from the division.

2. ~~[-except]~~ The screening instrument portion of the Kentucky DUI Assessment Instrument shall ~~[-may either]~~ be self-administered or administered by a certified or noncertified individual.

(f) The screening instrument portion of the Kentucky DUI Assessment Instrument shall ~~[may]~~ be administered individually or in a group.

(g) A program shall maintain a Roster of Assessments ~~[clients assessed]~~ that includes:

1. Client name, date of birth and Social Security or driver's ~~[drivers]~~ license number;

2. Assessment date; and

3. Type of referral and referral program.

(2) Client referrals. A DUI program shall accept a client referral from another program or a court.

(a) Court referral of DUI offenders.

1. An individual convicted of DUI in Kentucky shall obtain an assessment at a certified program of his choice listed in a directory published by the division.

2. Before accepting a client for an assessment, a program shall:

a. ~~[not accept a client for an assessment without]~~ ~~[first]~~ Obtain ~~[obtaining a copy of]~~ an AOC 494 form or a court order; ~~[from the court]~~ or

b. Document the client's file to show the reason one (1) of these forms could not be obtained.

3. If a client has received an assessment for his conviction at another DUI program, a program shall not conduct a subsequent ~~[an]~~ assessment for the [a] client ~~[if the client has received an assessment for his conviction at another DUI program]~~ without ~~[first]~~ obtaining a new court order ~~[from the court]~~.

(b) Program referral of DUI offenders.

1. A program desiring to make or receive a client referral shall execute a written Memorandum of Understanding with the in-state or ~~[instate and]~~ out-of-state programs, with which it will make or receive referrals.

2. A memorandum of understanding shall include:

a. Name of both programs;

b. Date it is executed;

c. Duties and responsibilities of each program to include the requirements for case coordination contacts between the programs;

d. Purpose of the agreement;

e. Terms for termination of the agreement; and

f. Signatures of each program's program administrator.

3. A program may refuse a client referral because of:

a. Inadequate staff;

b. Lack of an appropriate service; ~~[or]~~

c. A client waiting list; or

d. A program's previous unsuccessful attempt to treat a client.

4. A program shall not accept a client referral from another program without first obtaining a copy of the client's assessment and other available records pertinent to the client's assessment, education, or treatment.

5. A program shall inform a client at the time of his assessment that if he fails to disclose all of his outstanding DUI convictions, the services he receives will ~~[may]~~ not meet the requirements for reinstatement of his driver's ~~[drivers]~~ license.

6. A program shall refer a client to a program of the client's choice, at an appropriate level of care based on the client's assess-

ment. ~~[-and]~~ A program shall have a client sign a referral agreement stating he has been given freedom of choice in the selection of a program.

7. A program shall:

a. Allow a client freedom of choice in the selection of a program where he will receive education or treatment services; and

b. ~~[-but shall]~~ Not allow a client [him] to select the level of care or type of service, which [that] shall be based on the results of his assessment and the availability of services.

8. A program shall transfer a client's assessment results and the referral form generated by the Kentucky DUI Assessment Instrument to a program of the client's choice offering service at the [a] level of care needed by the client.

(3) Case coordination requirements.

(a) General requirements.

1. A program that conducts a client's assessment shall be responsible for case coordination whether the client receives education or treatment services at the program that conducted his assessment or at another program.

2. To determine if a client is compliant or noncompliant, case coordination shall be conducted and ~~[Case coordination shall]~~ include:

a. Having regular contact with the program receiving a client referral to determine a client's compliance with the recommended education or treatment;

b. Documentation in an assessment record of actions and contacts related to follow up on a client;

c. Sending a certificate of enrollment to the court after a client is assessed pursuant to KRS 189A.045;

d. Providing information on a client's progress to the court upon request;

e. Notifying the circuit clerk of the court within three (3) working days after making a determination or receiving notice that a client is noncompliant of the need to schedule [that] a show-cause hearing [must be scheduled];

f. Sending a completion report to the Transportation Cabinet and the court within three (3) working days after making a determination or receiving [from receipt of a] notice that a client is compliant [has satisfactorily completed the required services];

g. Providing a certificate of completion to a client if he satisfactorily completes the required services; and

h. Downloading on a computer diskette Kentucky DUI Assessment Instrument [completed client] records and completion and noncompliance reports and sending the diskette on a monthly basis to the division or its designee.

3. A program administrator shall notify the court within three (3) working days of the date specified in the client's fee agreement, if a client fails to pay for an assessment within the time stated in his fee agreement.

(b) Out-of-state clients and programs.

1. A program administrator shall notify ~~[the division and]~~ the state of conviction, in writing, on an Interstate Transfer Form, if [a certified DUI program enrolls] [receives a referral from out of state for] a client that is satisfying a DUI conviction from another state enrolls in a certified DUI program.

2. A Kentucky licensed driver or an individual who is not a Kentucky licensed driver convicted of DUI pursuant to KRS 189A.010(a) through (d) may be referred by a program after a DUI assessment to an out-of-state program for education or treatment if the program is licensed to provide services at the level of care necessary to satisfy his DUI in Kentucky. The referring program shall provide case coordination for the client.

3. A Kentucky licensed driver or an individual who is not a Kentucky licensed driver convicted of DUI pursuant to KRS 189A.010(a) through (d), who has not received an assessment in Kentucky, may receive assessment, education, or treatment services at an out-of-state program if he first receives approval from the division. The division shall:

a. Approve the out-of-state program if the program:

(i) Is licensed or certified by the state in which it is located;

(ii) Provides assessments; and

(iii) Offers alcohol and other drug education or treatment services; and

b. Provide case coordination for the client. ~~[A client that is not a Kentucky licensed driver convicted of DUI pursuant to KRS 189A.010(a)-(d) may receive assessment, education, and treatment services in an out-of-state program that is licensed to provide services at the level of care necessary to satisfy his DUI in Kentucky; and the division shall provide case coordination services for the client if he did not receive an assessment in Kentucky;~~

3. A Kentucky licensed driver convicted of DUI pursuant to KRS 189A.010(a)-(d), may receive assessment, education and treatment services in an out-of-state program that is licensed to provide services at the level of care necessary to satisfy his DUI in Kentucky only if he:

a. Establishes residency out of state;

b. Is working and living out of state;

c. Attends school out of state as a boarding student;

d. Is required by his insurance to receive services in a program out of state;

e. Is living out of state due to a family emergency; or

f. Is admitted to an out-of-state residential or inpatient treatment program;]

(c) Clients with special needs.

1. If a client is identified as having a special need at the time of his assessment a program shall provide services either directly or through referral according to the following:

a. Questions and instructions shall be read orally to a client who [that] is unable to read and responses shall be recorded for a client who [that] is unable to write;

b. A qualified interpreter shall be provided for a deaf client [that because of deafness, hard of hearing or an inability to communicate in English uses sign language, assistive technology or an interpreter as his primary mode of communication];

c. Reasonable accommodations shall be made for a client who [that] is unable to communicate in English [developmentally disabled pursuant to the Americans with Disabilities Act, 42 USC 12101 et seq.]; and

d. A pregnant client shall be [receive alcohol and other drug abuse services within forty-eight (48) hours of an assessment and an assessor shall document in the client's file that the client is receiving or is] referred for prenatal care.

2. A program shall document in a client's record special needs services the client receives.

3. Responsibility for payment of a special need service shall be according to the following:

a. A program shall be responsible for payment of interpreter services pursuant to KRS 30A.415; and

b. A client shall be responsible for payment of other services required because of a special need pursuant to KRS 189A.040.

4. A program shall comply with the rules of confidentiality established in:

a. [pursuant to] 908 KAR 1:320 if providing interpreter services to a client in a federally-assisted program; or [and]

b. [pursuant to] KRS 222.271(1) if providing interpreter services to a client in a nonfederally-assisted program.

(d) A client that receives treatment before an assessment. If a client receives treatment after being charged with DUI, without first receiving an assessment, a program shall:

1. Obtain a copy of a court order from the court and a copy of the client's uniform citation;

2. [Give a client credit for documented treatment at an appropriate level of care based on a DUI assessment received by the client since his DUI arrest; and

3.] Conduct an assessment and case coordination in accordance with subsections (1) and (3) of this section; and

3. Give the client credit for treatment he received since his DUI arrest if it can be documented that the treatment was at the level of care needed by the client based on the assessment conducted pursuant to subparagraph 2 of this paragraph.

(e) A client with multiple DUI convictions. If a client presents for an assessment with multiple unresolved DUI convictions, a program shall:

1. Obtain a copy of the client's uniform citation and an AOC 494 form or court order for each conviction;

2. Conduct one (1) assessment and case coordination in accor-

dance with subsections (1) and (3) of this section;

3. Refer the client to treatment at a level of care appropriate to satisfy the client's clinical needs and all of his DUI convictions; and

4. Complete a separate completion report for each of the client's convictions.

(f) A client convicted of DUI while enrolled in a program. If a client receives a subsequent conviction for DUI while enrolled in an education or treatment program, a program shall:

1. Obtain a copy of the client's uniform citation and an AOC 494 form or court order for the subsequent conviction;

2. Conduct another assessment and case coordination in accordance with subsections (1) and (3) of this section;

3. Refer the client to a level of care appropriate to satisfy the client's clinical needs and all of his DUI convictions;

4. Document the client's file to show that the client's admission to treatment began at the time he was reassessed; and

5. Complete a separate completion report for each of the client's convictions.

(g) Reenrollment of a client. If a client requests reenrollment after he stops attending education or treatment, a program shall:

1. Reenroll the client and allow him to resume the education or treatment service at the point where he last attended if he has not been reported noncompliant to the court; or

2. Refer the client back to the court for a new court order before conducting a new assessment and starting the education or treatment service over [and deliver services in accordance with the court order] [before conducting a new assessment and starting the education or treatment service over] if he has been reported as noncompliant to the court.

(h) Early release of a [first or] second offender.

[4.] If the program responsible for a client's case coordination determines [that a first or second offender has satisfactorily completed education or treatment the program administrator shall send a written report to the court recommending that a client be released early, within three (3) working days of the date it is determined;

a. A first offender has completed the education or treatment, that was recommended based on the client's assessment, prior to expiration of the ninety (90) day period; and

b.] a second offender, who [that] has completed at least six (6) months of the treatment that was recommended based on the client's assessment, has completed a program prior to the end [expiration] of the one (1) year period ordered by the court, the administrator of the program shall send a written report notifying the court that the client [a second offender] has completed the program.

[2. A program administrator shall obtain an order from the court before releasing a client early and ensure that a copy of the court order is included in a client's record.]

(i) A client under twenty-one (21) years of age. If a client is under twenty-one (21) years of age, a program shall deliver services:

1. In accordance with the requirements established [standards] in this administrative regulation if the client is convicted of DUI pursuant to KRS 189A.010(1)(a) through (d); or

2. In accordance with a court order, not subject to the requirements established [standards] in this administrative regulation, if the client is convicted [of zero tolerance] pursuant to KRS 189A.010(1)(e).

[Section 6. Assessment Requirements. (1) Court Referral of DUI Offenders. The courts shall refer all convicted first and multiple DUI offenders for an assessment to a certified program, listed in a directory, provided to the courts by the division.

(a) The court clerk, shall on the day of conviction, send a copy of the uniform citation issued to the client at the time of arrest for DUI, attached to the Administrative Office of the Courts (AOC) Form 494, to the program which will conduct the client's assessment.

(b) AOC Form 494 is hereby incorporated by reference. Copies of the form may be inspected or obtained at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601 between the hours of 8 a.m. through 4:30 p.m., Eastern time, Monday through Friday.

(2) Computerized screening shall be used.

(a) A program providing DUI assessment services shall use only

the computerized screening instrument approved by the division. The DUI assessment shall be conducted by an assessor holding valid certification from the division.

(b) The computerized screening instrument portion of the assessment may be administered individually or in groups.

(c) A program shall arrange for the oral reading of the assessment questions and instructions for clients who are unable to read the written instructions.

(d) The long form of the computerized screening instrument shall be administered in all cases except when administered to a group of more than ten (10), when administered to a reading disabled individual, or when administered to an individual being reassessed within thirty (30) days of their initial assessment. In such cases a program may administer the short form of the computerized screening instrument.

(e) A program shall maintain a roster of all clients assessed, in a format approved by the division; a copy of such roster shall be maintained in the program's central administrative files and made available to the division upon request.

(3) Assessment requirements:

(a) An assessment shall include:

1. The administration of the approved computerized screening instrument;

2. A private clinical interview between the certified DUI assessor and the client;

3. A discussion of referral options and client resources;

4. A determination of the severity of a client's problem; and

5. Referral to a program of the client's choice offering services at the level of care needed by the client.

(b) A program shall not conduct an assessment for a client, if the client has received an assessment for that conviction at another DUI program. A program shall refer a client back to the court, if a client previously received an assessment for that conviction, at another DUI program. A client shall pay all required fees for the assessment to the program.

(4) Assessment referrals:

(a) An assessor shall refer any client assessed as needing education or treatment services to any program eligible to provide substance abuse or chemical dependency education or treatment services.

(b) The assessor shall refer a client to receive the type of service appropriate to the client's needs at their own program or to any other eligible program of the client's choice.

(c) The client shall choose the program where the client desires to receive education or treatment services but the client shall not choose the level of care or type of service that the client is to receive.

(5) Clients with special needs:

(a) A program shall identify any client with special needs at the time of assessment in order to make an appropriate referral. Specifically, the computerized screening instrument shall contain a set of questions designed to identify whether or not a client is pregnant; and if so, the stage of pregnancy, at the time of assessment. This information shall be used to determine the type and level of treatment or education services needed by the client.

(b) The assessor shall consider the special needs of the client when making the referral.

(6) Requirements for client's case file:

(a) A program shall maintain a case file on each client assessed.

(b) The assessment results and any interview notes or other information pertaining to the assessment shall be maintained in the client's file.

(c) There shall be written documentation in each client's case file of all actions related to any referral to education or treatment services.

(d) Each client file shall contain the Cabinet for Human Resources (CHRR) Pamphlet Mental Health Mental Retardation 052 form (PAM MHMR 052). This form shall be used as a referral notice to transfer a client's records to another program, as a completion notice to notify the court, the client, the Transportation Cabinet, Department of Vehicle Regulation, Division of Drivers Licensing, and the division when a client has satisfactorily completed any required services and as a notice of noncompliance to notify the court, the client, and the division when a client fails to satisfactorily complete any required services.

(e) CHRR Form PAM MHMR 052 is hereby incorporated by reference.

2. Copies of the form may be inspected or obtained at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601 between the hours of 8 a.m. through 4:30 p.m., Eastern time, Monday through Friday.

(7) Case management requirements:

(a) A program providing assessment services, shall maintain case management responsibilities, for every client the program assesses; whether the client receives DUI education or treatment services at the program conducting the assessment, or at another eligible program:

(b) The case management process shall include:

1. The coordination of services provided to each client;
2. The responsibility of communicating with the court such information as the court requests on each client;
3. The responsibility of notifying the court, the client and the division when a client is noncompliant; and
4. The responsibility of notifying the Transportation Cabinet, Department of Vehicle Regulation, Division of Drivers Licensing, the court, the client and the division when a client has satisfactorily completed the required services.

(c) The program shall issue to each client, who has successfully completed the required services, a copy of their completion notice contained in CHR Form PAM MHMR 052, as referred to in Section 3(7) of this administrative regulation.

(8) Discontinuing operations of a program. A Program discontinuing operations while still maintaining case management responsibility for a client, shall:

(a) Notify the client in writing;

(b) Refer the client and transfer case management responsibility of the client's case to the program of the client's choice; and

(c) Submit to the division in writing, a list of all clients for whom the program maintains case management responsibility, and a copy of each client's CHR PAM MHMR 052 referral form with the name of the program receiving the client referral listed on the form.]

Section 7. Education Requirements. (1) Approved curricula. [Program curriculum requirements:]

(a) A DUI program desiring to provide [DUI] education services shall ensure:

1. That, except as provided in paragraph (c) of this subsection, within six (6) months of the effective date of this administrative regulation, the education delivered within the program is [At least] one (1) of the following [two (2)] twenty (20) hour curricula [Use a curriculum] approved by the division [is/are] delivered by the program]:

a. ["]Kentucky Alcohol and Other Drugs Education Program (KAODEP) Twenty (20) Hour["]; and

b. ["]Prime for Life Risk Reduction Program (PRI) Twenty (20) Hour["] [(a program shall have no longer than six (6) months from the effective date of this administrative regulation to comply with the requirement that at least one (1) of the two (2) new twenty (20) hour curricula is the only education delivered in a program)]; and

2. Instruction is [shall be] provided by an instructor holding valid DUI instructor certification from the division; and

3. A certified instructor delivers a curriculum in accordance with the curriculum delivery standards established by subsection (2) of this section and taught at a DUI instructor certification training conducted by the division or Prevention Research Institute, Inc.

(b) Two (2) levels of DUI education services shall be provided:

1. A nine (9) hour basic education course; and
2. A twenty (20) hour early intervention education course shall be provided:

(c) Two (2) nine (9) hour curricula and two (2) twenty (20) hour curricula have been approved by the division:

(d) A DUI program may provide either [any] or both [all levels] of the twenty (20) hour curricula at a certified location [DUI education courses, and may use any or all of the approved curricula].

(c) During the six (6) month transitional period established by paragraph (a)1 of this subsection, a program shall meet the requirements for a twenty (20) hour curriculum established in:

1. This administrative regulation as those requirements existed on January 1, 2000; or

2. Paragraph (a)1 of this subsection.

(2) Delivery standards.

(a) The twenty (20) hour curriculum shall:

1. Be for a first offender assessed as needing only education or as [and may only be] a supplement to treatment if delivered to a first or multiple offender assessed as needing treatment;

2. Consist of twenty (20) hours of instruction and group interaction that increases a client's awareness and knowledge about the risks of alcohol and other drug use and helps develop skills to change a client's attitude and behavior in relation to alcohol and other drug abuse; and

3. Be delivered no more than:

a. Three (3) hours per day; and

b. Three (3) times per week. [Not exceed two (2) hours daily and twice weekly, with at least three (3) calendar days between sessions:] [in accordance with the curriculum delivery standards taught at a training conducted by the division or Prevention Research Institute, Inc.]

(b) A program may enroll first offenders and multiple offenders in the same session.

(c) A program administrator shall ensure:

1. There are no more than twenty-five (25) and no less than two (2) clients in a session;

2. A curriculum is delivered in accordance with [according to] the delivery standards established in this subsection;

3. Required manuals for a curriculum are distributed to and used by a client;

4. A client is given the manual for his personal use after completion of an education service [a curriculum];

5. Videos required in a curriculum are shown to a client; and

6. Supplemental videos and speakers that are not approved as part of a curriculum are not used for an education service [in a DUI program].

(e) The maximum number of clients in a class shall be no more than twenty-five (25):

(f) An instruction session shall not exceed three (3) hours per day;

(g) The nine (9) hour DUI basic education course shall be for first offenders only and shall consist of a minimum of nine (9) hours of instruction and group interaction. Those first offenders assessed as low risk, not having an alcohol or substance abuse problem requiring treatment, shall be enrolled in a nine (9) hour education course.

(h) The twenty (20) hour DUI early intervention education course shall be for first offenders or multiple offenders and shall consist of a minimum of twenty (20) hours of instruction and group interaction. A program may enroll first offenders and multiple offenders in the same session.

(2) The approved curricula are hereby incorporated by reference. Copies of the curricula may be inspected or obtained at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601 between the hours of 8 a.m. through 4:30 p.m., Eastern time, Monday through Friday.]

(3) Documentation and [Program] completion requirements for education sessions. [required:]

(a) A program shall maintain a sign-in sheet for an education session that includes:

1. Name of the curriculum;

2. Title and number of the session;

3. Date, time, location, and name of the instructor; and

4. Client name and signature.

(b) A program [client] shall require a client to:

1. Attend and participate in each session of a curriculum;

2. a. If the client is a first offender, attend each session of the curriculum in any order; or

b. If the client is a multiple offender, except as provided by paragraph (c) of this subsection, attend sessions [complete all sessions of class instruction,] in [the required] sequence beginning with chapter 1;

3. [and shall] Comply with a program's rules of conduct; and

4. Pay required fees.

(c) [all standards of behavior required by the program to satisfactorily complete a DUI education service:

(b) If a client who is a multiple offender cannot attend a session [of class instruction], due to an emergency, a program shall [may]

~~allow the client [may be permitted] to attend a [that] session out of sequence the next time the chapter is presented by a program. [and] Documentation of the emergency shall be maintained in the [a] client's file.~~

~~(d) [of class instruction when the missed class session is repeated:~~

~~(e) If a client is receiving education at a program other than the program where he received his assessment, the [a] [demonstrates a need for services at a different level of care, the] program administrator shall [refer the client to any eligible program for the required services, and] notify the individual responsible for the [a] client's case coordination if the [a] client:~~

- ~~1. Demonstrates a need for service at a different level of care;~~
- ~~2. Satisfactorily completes education; or~~
- ~~3. Is noncompliant.~~

~~(e) If a client is receiving education at the program where he received his assessment, [program, which conducted the assessment of the action:~~

~~(d) the program administrator shall:~~

- ~~1. Determine if [make the determination as to whether] the [a] client has satisfactorily completed the DUI education service; and~~
- ~~2. Report compliance or [and] noncompliance in accordance with Section 6(3)(a)2 of this administrative regulation. [shall be responsible for notifying the program, which conducted the client's assessment, when a client has satisfactorily completed the required DUI education services, or when a client is noncompliant.]~~

~~(f) A program administrator shall ensure that a client's record contains documentation showing compliance with the requirements established in this subsection. [(4) Fees. All required fees for an education service shall be paid to the program by the client and such fees shall cover the cost of all course materials.~~

~~(5) Nonresident clients and programs. A client not residing in the state may receive DUI education services in an out-of-state program that is licensed and eligible as determined by the division, based on the standards in this administrative regulation, to provide comparable services at the level of care determined necessary to meet the client's individual needs.]~~

Section 8. Treatment Requirements. (1) General requirements.

(a) A DUI program desiring to provide treatment services shall:

~~1. Comply with the licensing requirements established in Section 2 of this administrative regulation; [Be licensed by the cabinet to provide the services offered;~~

~~2. Conform to the state licensure standards for treatment facilities;] and~~

~~3. [3:] Employ qualified staff that [members, who] have training and experience in dealing with the physical and psychological complications of alcohol and other drug abuse [dependence].~~

~~(b) A program shall ensure that the treatment a client receives is based on his assessment. [and] A client may be referred to [provide] outpatient, intensive outpatient, inpatient, residential, residential transitional living, [halfway house] or detoxification [chemical dependency or substance abuse] treatment services in a licensed treatment program in state or out of state pursuant to the requirements established in this administrative regulation.~~

~~(c) A program shall deliver treatment services according to the following:~~

- ~~1. A client shall [may] receive individual or group treatment;~~
- ~~2. A treatment group may include first and multiple offenders in the same session;~~
- ~~3. The maximum number of clients in a treatment group shall not exceed fifteen (15) [twelve (12)];~~
- ~~4. A client may be referred to a self-help group to supplement but not to replace treatment services;~~

~~5. A client referred to outpatient treatment shall receive at least one (1) hour of individual or one and one-half (1 1/2) hours of group treatment each week;~~

~~6. A client referred to intensive outpatient treatment shall receive at least six (6) hours of [individual or group] treatment over a period of two (2) or more days weekly in a program licensed for intensive outpatient treatment; [that includes education regarding the dynamics of chemical dependency and codependency, individual counseling, group counseling, family education and structured recreational~~

~~activities; and]~~

~~[7. A client referred for inpatient or [8. Inpatient and] residential treatment shall receive this treatment in a program licensed for inpatient or residential treatment; and] [include regular group and individual counseling and accessible supportive services including education, vocational rehabilitation, self-help groups, medical, laboratory or legal services.]~~

~~7. [8:] [7:] If a client receives treatment less often than the requirements established in subparagraphs 5 and 6 of this paragraph, to meet his individual clinical needs, a clinical rationale shall be documented in the client's record; and~~

~~8. A client referred for inpatient or residential treatment shall receive this treatment in a program licensed for inpatient or residential treatment. [- and]~~

~~[(c) The service a DUI client is assigned depends on the severity of symptoms, available support resources, and individual dynamics to be determined by the assessment. A client may be referred to outpatient, intensive outpatient, inpatient, residential, or detoxification services:~~

~~1. A program may provide outpatient or intensive outpatient treatment services to a client individually or in a group. A group may include first and multiple offenders in the same session. The maximum number of clients in a group shall be no more than fifteen (15);~~

~~a. A client shall receive a minimum of one (1) hour of individual outpatient treatment each week or a minimum of one and one-half (1 1/2) hours of group outpatient treatment each week. If a client receives outpatient treatment services less than one (1) time each week, to meet the individual clinical needs of the client, the program administrator shall maintain proper documentation in the client's case file to show cause;~~

~~b. A client may receive intensive outpatient treatment services, more often, and in longer sessions, each week to meet the individual clinical needs of the client;~~

~~2. A client may be referred to a self-help group to supplement but not to replace the outpatient or intensive outpatient treatment services;~~

~~(d) A client needing more restrictive services than paragraph (a)1a or b of this subsection shall be referred to detoxification, inpatient, residential or transitional living services.]~~

~~(2) [The] Treatment plan.~~

~~(a) A clinician or [program providing DUI] treatment planning team [services] shall be responsible for developing a treatment plan for a [each] client accepted for treatment services by the client's fourth session [- or by the end of the client's second week, whichever is sooner].~~

~~(b) A [The] treatment plan shall:~~

~~1. Be developed with a client's participation and be individualized for the needs of the [a] [each] client;~~

~~2. Include a written statement of the [a] client's problem with alcohol and other drugs and any other problem that contributes to or is related to the client's use of alcohol and other drugs;~~

~~3. Include a written statement of treatment [mutually agreed upon] [treatment] goals and measurable objectives [together] with a [realistic] time schedule for achieving the goals and a written statement of whether the [a] client agrees with the treatment plan [them];~~

~~4. [3:] Be signed by the client and the clinician; and~~

~~5. [4:] Be reviewed by the clinician and the client at least once every 180 calendar days or if there is a change documented in the client's treatment plan. [- and~~

~~5. All changes recorded in the client's case file.]~~

~~(c) A client's progress toward meeting the goals stated in his treatment plan shall be documented in the client's record by a clinician at least weekly.~~

~~(d) If the twenty (20) hour education curriculum is delivered as a supplement to treatment to a first or multiple offender assessed as needing treatment, it shall be included in a client's treatment plan.~~

~~(3) Completion requirements. [Attendance and other requirements:]~~

~~(a) To complete a treatment service, a client shall:~~

- ~~1. Comply with all attendance requirements;~~
- ~~2. Achieve the goals stated in his treatment plan;~~
- ~~3. Comply with a program's rules of conduct; and~~
- ~~4. Pay required fees. [of the treatment plan to satisfactorily complete a required treatment service.]~~

~~(b) If a client is receiving treatment at a program other than the~~

program where he received his assessment, the program administrator of the treatment program shall notify the individual responsible for the client's case coordination if a client:

1. Demonstrates a need for service at a different level of care;
2. Satisfactorily completes treatment; or
3. Is noncompliant.

[The program administrator shall refer the client to any eligible program for the required services, and notify the program which conducted the client's assessment of such action.]

(c) If a client is receiving treatment at the program where he received his assessment, the [a] [The] program administrator shall be responsible for:

1. Final approval that [Determining] [Make the determination as to whether] the [a] client has satisfactorily completed a [the] treatment service; and

2. Reporting compliance or [and] noncompliance in accordance with Section 6(3)(a)2 of this administrative regulation. [Be responsible for notifying the program, which conducted the client's assessment, when a client has satisfactorily completed the required treatment services, or when a client is noncompliant.]

(d) A program administrator shall ensure that a client's record contains documentation showing compliance with the requirements established in this subsection.

[(4) Fees. All required fees for treatment services shall be paid to the program by the client.

(5) Out-of-state treatment. Any client may receive treatment services at an out-of-state program that is licensed, and eligible, as determined by the division, based on the standards in this administrative regulation, to provide comparable services at the level of care determined necessary to meet the client's individual needs.]

Section 9. Administrative Hearing Requirements. (1) If the division takes action to deny, or revoke, a DUI program's certification or an individual's assessor or instructor certification, the division shall notify the program or individual assessor or instructor, in writing, stating a reason for the adverse action and notifying the program or individual assessor or instructor of the right to appeal the action pursuant to KRS Chapter 13B.

(2) A [Any] program or individual assessor or instructor shall [may] appeal a negative certification action taken by the division by notifying the division [to revoke, modify, suspend or deny certification or recertification of a DUI program, assessor, or instructor], in writing, within twenty (20) calendar days from [of] the date [issuance] of notice of [negative certification] action from the division. [Upon receipt of notice of appeal, the director of the division shall designate a hearing officer to conduct a hearing and make a recommendation to the division.

(2) Notice of hearing shall be mailed to the program or individual not less than ten (10) days prior to the commencement of the hearing. The notice of hearing shall contain the reasons for negative certification action. The notice of hearing shall be mailed by certified mail, return receipt requested to the parties.]

(3) Upon receipt of an appeal, the secretary or his designee[.] shall give notice of the hearing to a program or an individual assessor or instructor, in writing, not less than twenty (20) calendar days in advance of the date set for the hearing and the notice shall be sent in accordance with KRS Chapter 13B. [The program, individual and the division may be represented by counsel and make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. No depositions shall be permitted for the purpose of discovery, however, the hearing officer may authorize depositions or witnesses, who for good cause shown, cannot be present at the hearing. A hearing officer shall reside at the hearing, shall keep order, administer oaths, may issue subpoenas and may admit relevant and probative evidence and shall conduct the hearing in accordance with reasonable administrative practice.]

(4) The secretary, or his designee, shall appoint a hearing officer to conduct a hearing and the hearing shall be conducted pursuant to KRS Chapter 13B. [All testimony at the hearing shall be recorded but need not be transcribed unless requested. The person or organization requesting a transcript shall bear the cost of such transcript.

(5) The hearing officer may place reasonable time limits upon the presentation of testimony, evidence and argument and may terminate or exclude irrelevant or redundant evidence, testimony or argument.

(6) The hearing officer shall send a written determination to the division including findings of fact and conclusion of law. With the determination, the hearing officer shall forward to the division the record consisting of all documents, exhibits, and recorded testimony introduced in the hearing.

(7) The division shall issue the hearing officer's final determination of certification status within ten (10) days of receipt of the determination from the hearing officer.

(8) No hearing officer shall participate in any hearing involving a program or individual with which the hearing officer has had in the past twelve (12) months preceding the hearing, any ownership, in whole or in part, employment, staff, fiduciary, contractual, creditor or consultative relationship.]

(5) [(9)] The division shall retain all records related to a hearing for a period of at least five (5) years.

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

(a) AOC 494 form (Rev. 5-96) Notice to Attend Alcohol Driver Education Program (revised 5/96);

(b) Application for Program Certification DUI Form 01 (revised 3/2000 [10/01/98]);

(c) Application for Program Recertification DUI Form 06 (revised 3/2000 [10/01/98]);

(d) Complaint Form DUI Form 05 (revised 10/01/98);

(e) DUI Assessor Certification Application DUI Form 10 (revised 3/2000 [10/01/98]);

(f) DUI Assessor Recertification Application DUI Form 11 (revised 3/2000 [10/01/98]);

(g) DUI Instructor Certification Application DUI Form 12 (revised 3/2000 [10/01/98]);

(h) DUI Instructor Recertification Application DUI Form 13 (revised 3/2000 [10/01/98]);

(i) Interstate Transfer Form DUI Form 08 (10/01/98);

(j) ["Kentucky Alcohol and Other Drugs Education Program (KAODEP) Twenty (20) Hour"] (1998);

(k) Kentucky DUI Assessment Instrument (10/01/98);

(l) Memorandum of Understanding DUI Form 07 (revised 10/01/98);

(m) ["Prime For Life Risk Reduction Program (PRI) Twenty (20) Hour"] (1998);

(n) Program Certification Certificate DUI Form 15 (10/01/98);

(o) Program Review Form DUI Form 04 (revised 3/2000 [10/01/98]);

(p) Program Survey Form DUI Form 02 (revised 10/01/98);

(q) Report of Change Form DUI Form 03 (revised 10/01/98);

(r) Roster of Assessments DUI Form 09 (10/01/98); and

(s) Site Visit Follow-up Compliance Review Form DUI Form 14 (revised 3/2000 [10/01/98]). [- and]

(2) This material may be inspected, copied, or obtained at the Department for Mental Health and Mental Retardation Services, Division of Substance Abuse, 100 Fair Oaks Lane, Leestown Square, 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ELIZABETH REHM WACHTEL, Ph.D., Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: April 7, 1999

FILED WITH LRC: April 8, 1999 at 11 a.m.

CABINET FOR HEALTH SERVICES
Department for Mental Health and
Mental Retardation Services
(As Amended at ARRS, March 6, 2000)

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

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KAR 1:230, 908 KAR 1:240, 908 KAR 1:250, and 908 KAR 1:260.

RELATES TO: KRS 194.050, [Chapter 210,] 222.211, 222.231

STATUTORY AUTHORITY: KRS 194.050, 222.211, 222.231, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194.050, 222.211, 222.231, and Executive Order 96-862 authorize the cabinet to regulate alcohol and other drug abuse agencies and programs. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Mental Health and Mental Retardation Services and its programs under the Cabinet for Health Services. This administrative regulation repeals existing licensure requirements for nonmedical alcohol treatment centers and drug abuse treatment and education centers. This administrative regulation is necessary to repeal existing regulations that will be replaced by new administrative regulations.

Section 1. The following administrative regulations are [hereby] repealed: (1) 908 KAR 1:010, Definitions for nonmedical alcohol treatment and education center programs (NATE);

(2) 908 KAR 1:020, Licensing procedures (NATE);

(3) 908 KAR 1:030, Organization and administration (NATE);

(4) 908 KAR 1:040, Personnel policies (NATE);

(5) 908 KAR 1:050, Quality assurance (NATE);

(6) 908 KAR 1:060, Client's rights (NATE);

(7) 908 KAR 1:070, Physical plant (NATE);

(8) 908 KAR 1:080, General program operations (NATE);

(9) 908 KAR 1:090, Detoxification (NATE);

(10) 908 KAR 1:100, Residential treatment (NATE);

(11) 908 KAR 1:110, Residential transitional treatment (NATE);

(12) 908 KAR 1:120, Outpatient treatment (NATE);

(13) 908 KAR 1:130, Intensive outpatient treatment (NATE);

(14) 908 KAR 1:140, Education (NATE);

(15) 908 KAR 1:150, Definitions for drug abuse treatment and education (DATE) centers;

(16) 908 KAR 1:160, Licensing procedures (DATE);

(17) 908 KAR 1:170, Organization and administration (DATE);

(18) 908 KAR 1:180, Personnel policies (DATE);

(19) 908 KAR 1:190, Quality assurance (DATE);

(20) 908 KAR 1:200, Client's rights (DATE);

(21) 908 KAR 1:210, Physical plant (DATE);

(22) 908 KAR 1:220, General program operations (DATE);

(23) 908 KAR 1:230, Residential rehabilitation centers (DATE);

(24) 908 KAR 1:240, Nonresidential day care centers (DATE);

(25) 908 KAR 1:250, Educational information centers (DATE); and

(26) 908 KAR 1:260, Communication centers (DATE). [908 KAR 1:010;

(2) 908 KAR 1:020; and

(3) 908 KAR 1:030; and

(4) 908 KAR 1:040; and

(5) 908 KAR 1:050; and

(6) 908 KAR 1:060; and

(7) 908 KAR 1:070; and

(8) 908 KAR 1:080; and

(9) 908 KAR 1:090; and

(10) 908 KAR 1:100; and

(11) 908 KAR 1:110; and

(12) 908 KAR 1:120; and

(13) 908 KAR 1:130; and

(14) 908 KAR 1:140; and

(15) 908 KAR 1:150; and

(16) 908 KAR 1:160; and

(17) 908 KAR 1:170; and

(18) 908 KAR 1:180; and

(19) 908 KAR 1:190; and

(20) 908 KAR 1:200; and

(21) 908 KAR 1:210; and

(22) 908 KAR 1:220; and

(23) 908 KAR 1:230; and

(24) 908 KAR 1:240; and

(25) 908 KAR 1:250; and

(26) 908 KAR 1:260.]

ELIZABETH REHM WACHTEL, Ph.D., Commissioner

JOHN H. MORSE, Secretary

APPROVED BY AGENCY: April 13, 1998

FILED WITH LRC: April 14, 1998 at 3 p.m.

CABINET FOR HEALTH SERVICES
Department for Mental Health and
Mental Retardation Services
(As Amended at ARRS, March 6, 2000)

908 KAR 1:370. Licensing procedures and standards for persons and agencies operating nonmedical - and nonhospital-based alcohol and other drug abuse treatment programs.

RELATES TO: KRS 222.003(1), 222.005, 222.231, 222.990

STATUTORY AUTHORITY: KRS 194A.050 [194.050], 222.231; EO 96-862]

NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050 [194.050] and 222.231 require [mandate] the Cabinet for Health Services to establish requirements and standards for licensing a person or an agency and approving nonmedical and nonhospital based alcohol and other drug abuse treatment programs. KRS 194A.050 [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and] places the Department for Mental Health and Mental Retardation Services and its programs under the Cabinet for Health Services. This administrative regulation establishes [provides] licensure requirements which establish minimum standards for a person or an agency operating a nonmedical or non-hospital based [an] alcohol and other drug abuse detoxification, residential, [family-residential;] residential transitional living, outpatient, or [or] intensive outpatient[and halfway house] [treatment] program.

Section 1. Definitions. (1) "Accredited college or university" means an institution listed in the most recent college handbook published by the College Board.

(2) "Agency" is [means-as] defined in KRS 222.005(2).

(3) "Alcohol and other drug abuse" is [means-as] defined in KRS 222.005(12).

(4) ["Alcohol and other drug abuse treatment entity" means an agency or a business owned by an individual, which operates one (1) or more of the following alcohol and other drug abuse treatment programs: detoxification, residential, family residential, residential transitional living, outpatient or intensive outpatient.]

(5) ["Alcohol and other drug free work place" means a set of policies established by an AODE to create a work environment where the unlawful manufacture, distribution, possession, or use of a controlled substance or the use of alcohol is strictly prohibited.]

(5) [(6)] "AODE" means a nonmedical and nonhospital based [an] alcohol and other drug abuse treatment entity owned by an individual or agency which operates one (1) or more of the following programs: detoxification, residential, family residential, residential transitional living, outpatient, or intensive outpatient [or halfway house].

(5) [(6)] "Cabinet" is defined in KRS 222.005(3) and means the Office of Inspector General, Division of Licensing and Regulation, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

(6) [(7)] "Case management" means an activity which brings services, agencies, resources, or people together to take actions toward the achievement of a client's goals.

(7) [(8)] "Client" means an individual who receives treatment services in a licensed AODE.

(8) [(9)] "Client record" means a file containing documentation of client services and other client data.

[(10)] "Clinical service" means a diagnostic and treatment activity received by a client in a program of a licensed AODE.]

(9) [(11)] "Clinical services supervisor" means an individual responsible for monitoring and directing assessment [diagnostic] and

treatment services and providing consultation and instruction to clinical staff [a clinician and case manager to ensure he is engaged in sound clinical practice].

(10) [(12)] "Clinician" means an individual who [has assigned alcohol and other drug abuse client cases;] conducts clinical assessments, is responsible for developing a [and implementing an alcohol and other drug abuse] client's treatment plan, [and who] leads counseling sessions **and provides case management**.

[(14)] "Confirmatory drug or alcohol screening test" means a follow-up test utilizing a second independent chemical methodology;]

[(13)] "Controlled substance" means as defined in KRS Chapter 248A-;

(11) [(14)] "Counseling" means a relationship where a clinical staff person helps a client mobilize resources to resolve problems and modify attitudes and behavior.

[(15)] "CourtNet Disposition System" means a statewide database, maintained by the Kentucky Administrative Office of the Courts, containing all criminal conviction data involving both state and local law enforcement agencies in Kentucky;]

(12) [(16)] "Daily living skills" means budgeting, meal planning, shopping, personal [personnel] hygiene, housekeeping and using public transportation.

(13) [(17)] "Detoxification program" means a supervised nonmedical withdrawal from an alcohol or other drug induced intoxication and an assessment of a client's need for further care resulting in referrals to appropriate resources.

[(18)] "Diagnosis" means a condition listed in the current Diagnostic and Statistical Manual, which is a desk reference for determining physical and mental conditions based on a set of signs and symptoms;

(19) "Diagnostic impression" means a preliminary determination of a diagnosis made prior to the completion of a treatment plan;

(20) "Diagnostic summary" means a written analysis of client assessment information for the purpose of identifying patterns of behavior and prioritizing problems to be addressed in treatment;]

[(23)] "Division" means the Division of Substance Abuse, Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, 100 Fair Oaks Lane, 4E-D, Frankfort, Kentucky 40621-0001;

(24) "Emergency procedures" means crisis intervention, cardio-pulmonary resuscitation, and standard first aid;]

(14) [(21)] "Facility" means the physical area where a treatment program is operated by an **AODE** [agency].

(15) [(22)] "Family residential [treatment] program" means an organized intensive set of therapeutic activities provided in an environment where the client resides twenty-four (24) hours a day with his children.

(16) [(23)] "Federally-assisted" means **a program that meets the requirements established in 42 CFR 2.12(b)**, [as defined in 908 KAR 1:320;]

(17) [(24)] "Governing authority" means the person or agency in which the ultimate responsibility and authority for the operation of the AODE is vested.

[(25)] "Halfway house" means **a therapeutic group setting where counseling is not provided by staff and where a client resides twenty-four (24) hours a day and makes a social and vocational adjustment prior to returning to family or independent living in the community;**

(18) [(26)] "Immediate danger" means a condition in the program which could or has caused death or serious physical injury.

(19) [(27)] "Intake" means an administrative and initial assessment procedure completed at the time of a client's admission to a program.

(20) [(28)] "Intensive outpatient [treatment] program" means a structured comprehensive program of individual and group therapeutic activities delivered in a nonresidential setting, where a client is assisted in recovery from alcohol or other drug abuse on a scheduled and intense basis.

(21) "Mental status screening" means **a screening of a client's current mental condition including the identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality.**

[(29)] "OHSAD" means **an organized health care substance abuse care delivery system which is an AODE agency which operates out-**

patient, intensive outpatient, detoxification programs and at least one (1) of the following: residential, family residential, residential transitional living and halfway house programs, in multiple sites that are accessible to all residents throughout a prescribed grouping of counties that conform to the area development districts within which the OHSAD is located;

(22) [(30)] "Outpatient [treatment] program" means individual and group therapeutic activities, assisting a client in recovery from alcohol or other drug abuse, provided in a nonresidential setting on a scheduled and unscheduled basis.

[(33)] "Presumptive drug or alcohol screening test" means testing through the use of a chemical screening methodology for the presence of drugs or alcohol in a urine or blood sample;

(34) "Primary responsibility" means having the main obligation for ensuring that a child's needs are met regarding food, clothing, hygiene, safety, discipline, supervision and follow-up on a referral to a community resource;]

(23) [(31)] "Program" **is** [means as] defined in KRS 222.005(10).

(24) [(32)] "Recovery" means rehabilitation from alcohol or other drug abuse.

(25) [(33)] "Registered dietitian" means an individual registered with the American Dietetic Association.

[(38)] "Relapse prevention plan" means a written assessment of potential triggers which may cause a client to use alcohol or other drugs and the identification of therapeutic activities and strategies focused on eliminating the potential triggers;]

(26) [(34)] "Residential transitional living program" means a therapeutic group setting, **where counseling is provided either on site by staff or off site, and** where a client resides twenty-four (24) hours a day, and makes a social and vocational adjustment prior to returning to family or independent living in the community.

(27) [(35)] "Residential **treatment** [treatment] program" means a set of organized and intensive individual and group therapeutic activities, provided in a twenty-four (24) hour setting, which assists a client in recovering from alcohol or other drug abuse.

[(41)] "Screening" means the preliminary process used to identify a client's needs to determine if the client is eligible for admission to a particular program or is in need of a particular service;]

(28) [(36)] "Self-help group" means activities provided in a self-directed peer group setting, for a person recovering from alcohol or other drug abuse or the effects of another person's alcohol or other drug abuse, where support and direction in achieving or maintaining an alcohol and drug free life style or in learning to cope with a problem related to another person's alcohol or other drug abuse is provided.

(29) [(37)] "Service" means a therapeutic activity provided in a program to meet a client's rehabilitation needs as they relate to the use of alcohol or other drugs.

[(38)] "Special dietary requirements" means a diet required by a physician's prescription or for a client's religious or ethical reasons;

(39) "Substantial health risk" means a condition which creates a significant risk of death or which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any organ of the body;]

(30) [(40)] "Treatment" **is** [means as] defined in KRS 222.005(13).

(31) [(41)] "Withdrawal" means the physiological readjustment of the body after an individual stops using alcohol or other drugs.

Section 2. Licensing Requirements. (1)(a) **An AODE shall obtain a license from the cabinet before operating a program unless exempted under KRS 222.003(1) or 222.231(1).**

(b) **An AODE shall be issued:**

1. **One (1) license which shall apply to all facilities operated by the AODE where an outpatient or an intensive outpatient program is provided; and**

2. **A separate license for each facility where a twenty-four (24) hour program is operated.**

(c) **An AODE operating without a license, unless otherwise exempted, shall be subject to the penalties established in KRS 222.990(2).**

(d) **For a period of one (1) year following the effective date of this administrative regulation, an entity operating a non-medical alcohol or other drug abuse treatment program under the authority of 908 KAR 1:010 through 908 KAR 1:260 or 902**

KAR 20:091 may continue to operate the program until licensuring as an AODE can be attained.

~~(2) [An AODE shall be required to obtain a license from the cabinet before operating a program unless exempted under KRS 222.003(1) or 222.231(1). Each facility of the AODE shall be licensed separately unless the AODE is an OHSAD. An OHSAD shall be issued one (1) license which shall apply to each facility that is operated by the OHSAD. An AODE operating without obtaining a license for each facility, unless otherwise exempted, shall be subject to the penalties in KRS 222.990(2). A program licensed as a non-medical alcohol treatment and education (NATE) center and drug abuse treatment and education (DATE) center, pursuant to 908 KAR 1:010-1:260 or a community mental health center licensed pursuant to 902 KAR 20:091 for alcohol and other drug abuse outpatient or intensive outpatient programs, on the effective date of this administrative regulation, shall be required to obtain an AODE license when the current license expires or within one (1) year from the effective date of this administrative regulation, whichever is earlier. [An AODE shall not operate without first obtaining a license from the cabinet for each facility unless exempted under KRS 222.003(1) and 222.231(1). An AODE operating without obtaining a license for each facility from the cabinet shall be subject to the penalties stated in KRS 222.990(2).]~~

~~(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, a solo practitioner [an individual owner of a business] who provides alcohol and other drug abuse treatment services pursuant to Kentucky Revised Statutes governing the independent clinical practice of psychology, social work, medicine, psychiatric nursing, marriage and family therapy, professional counseling, alcohol and drug counseling and art therapy is not required to obtain an AODE license.~~

~~(3) If more than one (1) AODE operates at the same location, each AODE shall maintain a separate organizational identity by:~~

~~(a) Conspicuously posting a sign in a public area showing the name of the AODE;~~

~~(b) Utilizing a separate logo or letterhead on written materials;~~

~~(c) Maintaining client records in a separate and secure cabinet; and~~

~~(d) Conducting treatment services separate from another AODE located at the same location.~~

~~(3) The license shall:~~

~~(a) Be conspicuously posted in:~~

~~1. A public area of the AODE's administrative office; and~~

~~2. Each facility where a twenty-four (24) hour program is operated; and~~

~~(b) Specify the date the license expires. [(4) The license shall be conspicuously posted in a public area of each facility and shall specify which programs are approved for operation at the facility and the date the license expires.]~~

~~(4) [(5)] The cabinet shall make available to the public upon request[,] a list of licensed AODEs, showing the location of each facility and the type of program operated at each facility. [The cabinet may issue revisions and corrections to this list as changes occur.]~~

~~(5) [(6)] Application for licensure or relicensure [a license]. An Application for Licensure to Operate an Alcohol or Drug Treatment Entity (AODE) [or relicensure] shall be obtained from and submitted to the cabinet and shall include:~~

~~(a) The AODE name, owner and mailing address;~~

~~(b) Facility address, [and] phone number, hours of operation for each facility where a program is operated and the location where client records are kept; and~~

~~(c) Type of programs to be operated at each facility[; and~~

~~(d) Hours of operation].~~

~~(6) [(7)] An application for licensure shall be accompanied by a fee of \$155 for each facility.~~

~~(7) [(8)] An application for relicensure shall be accompanied by a fee of eighty (80) dollars for each facility.~~

~~(8) [(9)] An application for licensure or relicensure shall be processed according to the following:~~

~~(a) The cabinet may conduct an unannounced on-site inspection of a [any] facility;~~

~~(b) An AODE shall provide the cabinet access to each facility and to documents needed to complete an inspection during normal busi-~~

~~ness hours;~~

~~(c) The cabinet shall notify an AODE in writing of the violation of a licensure standard identified during an inspection on Form L&R 18, Statement of Deficiencies and Plan of Correction; and~~

~~(d) An AODE shall, within ten (10) calendar days from receipt of the Form L&R 18 [notice of violation], submit to the cabinet a written plan of correction on the Form L&R 18 specifying the corrective action to be taken and the date when each violation shall be corrected.~~

~~(9) [(10)] The cabinet shall issue a license for a period of one (1) year to the owner of the AODE named in the application, [and] The license shall be effective on the date [on which] approval is granted by the cabinet.~~

~~(10) [(11)] Change in AODE status.~~

~~(a) Name change.~~

~~1. An AODE shall notify the cabinet in writing within ten (10) calendar days of the effective date of change.~~

~~2. An AODE shall submit a processing fee of twenty-five (25) dollars to the cabinet.~~

~~3. The cabinet shall [may] issue a new license for the remainder of the licensure period unless the AODE is under investigation that may result in a negative licensure action pursuant to subsection (12) of this section.~~

~~(b) Change of location. An AODE shall not change the [operate a program at a new] location where a program is operated until an Application for Licensure to Operate an Alcohol or Drug Treatment Entity (AODE) [application for licensure] accompanied by a fee of eighty (80) dollars is filed with the cabinet.~~

~~(c) Change of ownership. The new owner of an AODE shall submit to the cabinet an Application for Licensure to Operate an Alcohol or Drug Treatment Entity (AODE) [application for licensure] accompanied by a fee of \$155 for each facility within ten (10) calendar days of the effective date of change.~~

~~(d) Discontinuing a program. An AODE shall notify the cabinet in writing within ten (10) calendar days of the effective date of change.~~

~~(11) [(12)] Denial of a license. If an AODE fails to meet the requirements of this administrative regulation [submit an acceptable plan of correction within ten (10) calendar days from the date of a notice of violation], the cabinet may deny the application for licensure or relicensure.~~

~~(12) [(13)] Negative licensure actions.~~

~~(a) Complaints. If a complaint is received by the cabinet, the cabinet may conduct an unannounced on-site inspection to determine if a violation of a licensure standard has occurred. An inspection shall be conducted in accordance with subsection (8) [(9)] [(8)](b), (c) and (d) of this section.~~

~~(b) Revocation of a license. If an AODE fails to meet the requirements of this administrative regulation [submit to the cabinet an acceptable plan of correction], the cabinet may revoke a license.~~

~~(c) Immediate revocation of a license. The cabinet shall immediately revoke a license in the case of immediate danger.~~

Section 3. Appeals. (1) If the cabinet takes action to deny, revoke or immediately revoke an AODE license, the cabinet shall notify an AODE in writing stating a reason for the adverse action and the AODE's right to appeal in accordance with KRS 222.231(6) and (7).

(2) An AODE may appeal a negative action by the cabinet in writing to the Secretary, Cabinet for Health Services, 4th Floor, 275 East Main Street, Frankfort, Kentucky 40621, within thirty (30) calendar days from the date of the notice of action from the cabinet.

(3) Upon receipt of an appeal, the secretary, or his designee, shall notify the AODE in writing within fifteen (15) calendar days of the time and place of the hearing. The secretary, or his designee, shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.

(4) Based upon the record and upon the information obtained at the hearing, a hearing officer shall make a recommendation to the secretary to affirm or overturn the initial decision of a negative action. The final decision shall be issued by the secretary in accordance with KRS 222.231(7). [A hearing officer shall have authority to issue a subpoena to compel the attendance of a witness and the production of a document to be used as evidence in a hearing held pursuant to this section.]

(5) Based upon the record and upon the information obtained at

the hearing, a hearing officer shall affirm or overturn the initial decision of a negative action. A decision of the hearing officer shall be final. An AODE shall be notified in writing by the secretary, or his designee, of the decision of the hearing officer.]

(5) [(6)] Immediate revocation. If an AODE's license is immediately revoked pursuant to Section 2(12) [(13)] [(12)](c) of this administrative regulation, and the AODE requests a hearing, the cabinet shall conduct a hearing within five (5) working days of the cabinet's receipt of a request from the AODE. A hearing shall [may] be continued at the request of an AODE.

(a) The sole issue of the hearing shall be whether there [one (1) or more of the grounds for immediate revocation] is immediate danger.

(b) The cabinet shall render a decision within five (5) working days of the hearing. If the decision overturns the [a decision is not rendered within five (5) working days of the hearing, or if a hearing officer overturns the cabinet's] negative action, an AODE shall have its license returned and be allowed to operate and continue the appeals process in accordance with subsections (1), (2), (3), and (4) [and (5)] of this section.

(c) If the cabinet determines there was [a hearing officer decides within five (5) working days of the hearing that one (1) or more grounds for immediate revocation, is] immediate danger, the action by the cabinet to immediately revoke the AODE's license shall be upheld pending action by the cabinet to accept a plan of correction or to permanently revoke the license.

(6) [(7)] An AODE that continues to operate after a closing date established by the secretary, or his designee, shall be subject to legal action by the cabinet pursuant to KRS 222.990(2) [as provided by law].

Section 4. Physical Plant. (1) An AODE shall ensure [and maintain documentation on-site] that a facility is in compliance with building, fire, safety, and health standards specified by federal, state and local laws and regulations.

(2) An AODE shall have a policy to ensure the following requirements are met in a non-twenty-four (24) hour program: [ensure that a facility is in compliance with the Americans with Disabilities Act, 42 USC 12101 et seq.]

(a) [(3)] A facility, including the equipment, shall be kept in good repair, neat, clean, free from all accumulations of dirt and rubbish and free from foul, stale and musty odors;

(b) [(4)] A facility shall be kept free from insects and rodents with their harborages eliminated;

(c) A counseling session shall be conducted in an area where a client is ensured privacy and confidentiality; and

(d) State Fire Marshal approval of a facility shall be obtained at the time of application for initial licensure or if a program changes location. If a program is located in a public building, which receives a regular inspection from the State Fire Marshal, the AODE may submit a copy of the most recent inspection by the State Fire Marshal at the time of application for initial licensure or if a program changes location.

[(5) A facility shall conduct counseling sessions in [have a private] areas where recipients are ensured privacy and confidentiality [others will not be able to hear the content of a conversation during the delivery of a service];

(6) Outpatient setting. In addition to the standards [specified] in subsections (1), (2), (3), [and] (4) and (5) of this section, a program providing [including] counseling and education services in an outpatient setting shall provide at least nine (9) [twenty (20)] square feet of individual space for each client while receiving a service.]

(3) [(7) Twenty-four (24) hour setting.] In addition to the standards [specified] in subsection (1) [subsections (1), (2), (3), [and] (4), and (5)] of this section, an AODE operating a treatment program [conducted at a facility] which provides twenty-four (24) hour care shall meet the following additional requirements:

(a) Including the square feet available within the entire facility, there shall be at least 120 square feet of space for each client residing in the facility;

(b) There shall be at least one (1) toilet and [;] one (1) sink per eight (8) clients, and at least one (1) shower or tub per fifteen (15) [eight (8)] clients;

(c) There shall be a bed with clean bedding which includes

sheets, pillowcase, blanket, and a pillow for each client;

(d) There shall be adequate lighting, heating, heated water and ventilation;

(e) There shall be space for a client to store personal belongings, including a receptacle where personal property may be stored and locked;

(f) There shall be an area provided for the following [activities]:

1. Sleeping;
2. Dining;
3. Bathing and toileting;
4. Lounge;
5. Laundry;
6. Visiting;
7. [Recreation;
- 8.] Private consultation; and
8. [9.] Telephone;

(g) State Fire Marshal approval of a facility shall be obtained at the time of application for licensure, relicensure or if a program changes location;

(h) A facility, including the equipment, shall be kept in good repair, neat, clean, free from all accumulations of dirt and rubbish and free from foul, stale and musty odors;

(i) A facility shall be kept free from insects and rodents with their harborages eliminated; and

(j) A counseling session shall be conducted in an area where a client is ensured privacy and confidentiality.

Section 5. Organization and Administration. (1) There shall be a governing authority with overall responsibility for the management and operation of an AODE.

(2) A governing authority shall:

(a) Be responsible for the direction of an AODE by establishing written policies and procedures for the operation of the AODE;

(b) Develop a mission statement outlining an AODE's purpose;

(c) Identify an administrator who shall be principally responsible for the day-to-day operation of an AODE;

(d) 1. [Develop an administrative structure and establish a line of authority for each program which shall be documented on an organizational chart except when there is only one (1) individual working in the AODE;

(e) Develop a policy to establish a [an-approved] fee schedule;

2. Conspicuously post the fee schedule in a public area of each facility;

3. [; to] Abide by the fee schedule;

4. [; to] Maintain financial records regarding the assessment and payment of client fees; and

5. [to] Provide a receipt for all client services delivered;

(e) [(f)] [Maintain on file documentation that an AODE has obtained professional malpractice [liability] insurance to cover all clinical staff in the minimum amount of \$100,000 per occurrence;

[(f)] [(g)] Ensure that an AODE's policies and procedures are available to all personnel and a copy is maintained at the AODE's administrative office; and

[(f)] [(g)] [(h)] Document that an AODE's policies and procedures are reviewed [and revised as needed] every two (2) years and revised as needed.

Section 6. Personnel Policies. (1) An AODE shall develop written policies and procedures governing personnel and employment practices.

(2) There shall be a written job description for each position stating qualifications, duties, and reporting supervisor [and positions supervised].

(3) There shall be evidence that all personnel are qualified for their position through documentation of education, work experience, and professional licensure, certification or registration.

(4) Policies shall be developed for:

(a) Maintaining an alcohol and other drug free work place including an action to be taken if any personnel:

1. Are convicted of the illegal [unlawful] manufacture, distribution, dispensation, possession or use of alcohol or a controlled substance; or

2. Uses alcohol or an illegal controlled substance while on the

grounds of the AODE or if performing AODE business;

(b) Ensuring that all personnel engage in ethical practices in the delivery of [a] client services including a requirement that a clinician, as defined in Section 8(4)(d) of this administrative regulation, sign a code of ethics developed by the AODE [division]; and

(c) Prohibiting a conflict of interest resulting from a sexual, financial, or other relationship [activity] between a client and any personnel, which is adverse or exploitative to the client.

(5) A criminal background check shall be obtained by an AODE from the Administrative Office of the Court's Courtnet Disposition System on all [an] administrators and [on a] clinicians, who begin working in the AODE, after the effective date of this administrative regulation.

(6) An administrator or a clinician shall not be allowed to work in an AODE within two (2) years from the date of his release from incarceration, or probation or parole, for a felony conviction.

(7) An individual who has had a criminal conviction for the neglect, physical abuse, sexual abuse or sexual exploitation of a child or for endangering the welfare of a child shall not be allowed to work with a juvenile client.

(8) An administrator or a clinician shall not be allowed to work in the AODE if while working in the AODE he is convicted of a felony.

(5) [(9)] A separate personnel record shall be maintained at the AODE's administrative office for each individual working in the AODE and shall contain:

(a) Job description;

(b) Documentation of education, work experience, and any professional licensure, certification or registration required for performance of the assigned job duties;

(c) [Documentation of the criminal background check for an administrator or a clinician;

(d) A [clinician's] signed code of ethics in accordance with subsection (4)(b) of this section; and]

(e) Documentation [A written summary] of each training [event] completed by the individual [AODE personnel], to include the topic, length, and date of the training [event in clock hours]; and

(d) [(f)] Documentation of the annual performance evaluation; and

(g) A clinical services supervisor's signed agreement in accordance with Section 8(3) of this administrative regulation].

(6) [(10)] There shall be written policies and procedures governing the duties [use] and supervision of volunteers and student interns in the AODE.

[(11)] There shall be written policies and procedures to establish a mechanism consistent with due process for suspension and dismissal of an employee for cause.]

Section 7. Quality Assurance. (1) An AODE shall have written policies and procedures to ensure that quality services are delivered and that the health and safety of the client population is protected while receiving a service.

(2) The policies and procedures shall establish a system of utilization [for periodic] review [of each staff person's client caseload] which includes:

(a) The quality of services shall be evaluated by a utilization review team composed of a representative sample [members] of the clinical staff responsible for providing services;

(b) The utilization review [procedures] shall [at least have the capability to] assess the appropriateness and clinical necessity of client admissions as well as the accuracy, completeness and appropriateness of [the] treatment plans [plan] and discharge [outcome];

(c) The utilization [client care] review shall evaluate a sample of client cases [occur] at regularly scheduled intervals; and

(d) A written record of the utilization [client care] review [shall be generated] identifying inappropriate patterns of service and the recommended action for correcting a [any] problem[. This report] shall be submitted to the individual in the AODE with overall responsibility for the program's treatment services; and

(e) Follow-up studies shall be conducted related to the corrective actions taken and shall be completed within a reasonable period of time and the findings documented].

(3) The policies and procedures shall establish a system for responding to an accident or injury at a [the] facility; that requires

hospitalization or results in death, or [and] an incident at a [the] facility; involving fire damage, natural disaster or a threat to security that substantially interrupts the delivery of services, which includes:

(a) Documenting an incident or accident in an [AODE] incident file which shall be maintained at an AODE's administrative office; and

(b) Reporting an incident or accident to the individual who is responsible for the day-to-day operation of an AODE and to the Cabinet for Families and Children [an outside agency] according to the following:

1. An incident of child abuse or neglect in accordance with KRS 620.030; and

2. An incident of adult abuse or neglect in accordance with KRS 209.030.

(4) The policies and procedures for a twenty-four (24) hour program shall establish an infection control system which includes:

(a) A procedure for reporting, evaluating, and maintaining a record of an incident of infection in a client or any personnel which poses a substantial health risk to another person;

(b) Designating an individual within an AODE responsible for taking corrective action; and

(c) orientation for all new personnel and annual in-service training for all personnel on proper hygiene [infection control procedures and on specific information] related to infections prevalent among alcohol and other drug abusers.

(5) The policies and procedures shall establish an emergency plan for responding to a disaster at the facility, including fire and severe weather, which includes:

(a) An emergency plan shall be conspicuously posted in a public area of each facility;

(b) A copy of the emergency plan shall be provided to all personnel;

(c) An AODE shall provide training for all personnel on how to report a fire, extinguish a small fire, and evacuate a building; and

(d) An AODE shall conduct a fire drill in accordance with 815 KAR 10:060.

(6) The policies and procedures shall establish a system to effectively respond to the problems associated with domestic violence among clients served in the AODE to include the following:

(a) Training for clinical staff on the dynamics of domestic violence, its effect on adult and child victims, legal remedies for protection, safety and risk issues, available community services and victim services, and applicable reporting requirements;

(b) A client with a history of domestic violence shall be assessed as to their current safety risks; and

(c) Mechanisms for reducing safety risks to the client with a history of domestic violence, staff and other clients. [10:050:] [An AODE shall have written policies and procedures to ensure that quality services are delivered and that the health and safety of the client population is protected while receiving a service.

(2) The policies and procedures shall establish a system for client case review to include:

(a) An annual review of client cases to determine if an appropriate decision was made by a clinician regarding a client's diagnosis, admission, treatment plan, progress in relation to the treatment plan and termination;

(b) A system of peer review to ensure a clinician shall not review his own client cases and requiring that a reviewer meets the qualifications for a clinical services supervisor in accordance with Section 8(2) of this administrative regulation;

(c) A system for determining the number of open and closed cases to be reviewed annually and the method of case selection;

(d) A written record of each case review stating if the review is satisfactory or deficient, the corrective action to be taken, and the time frame for taking the action;

(e) The requirement for submitting the results of a written case review to a clinician, clinical services supervisor and an individual in the AODE responsible for managing the case review process; and

(f) Designating an individual responsible for managing a case review process, maintaining documentation of written case reviews;

and following up to ensure that a corrective action is taken within the required time frame.

(3) The policies and procedures shall establish a system for responding to an accident or injury requiring hospitalization or resulting in death, and an incident involving fire damage, natural disaster or a threat to security that substantially interrupts the delivery of services which shall include:

(a) Documenting an incident or accident in an AODE incident file; and

(b) Reporting an incident or accident to the individual who is responsible for the day-to-day operation of an AODE and to an outside agency according to the following:

1. An incident of child abuse or neglect in accordance with KRS 620.030; and

2. An incident of adult abuse or neglect in accordance with KRS 209.030.

(4) The policies and procedures shall establish an infection control system which shall include:

(a) A procedure for reporting, evaluating, and maintaining a record of an incident of infection in a client or any personnel which poses a substantial health risk to another person;

(b) Designating an individual within an AODE responsible for taking corrective action; and

(c) Orientation for all new personnel and annual in-service training for all personnel on infection control procedures and on specific information related to infections prevalent among alcohol and other drug abusers.

(5) The policies and procedures shall establish an emergency plan for responding to a disaster including fire and severe weather, which shall include the following requirements:

(a) An emergency plan shall be conspicuously posted in a public area of each facility;

(b) A copy of the emergency plan shall be provided to all personnel;

(c) An AODE shall provide training for all personnel on how to report a fire, extinguish a small fire, and evacuate a building; and

(d) An AODE shall conduct a fire drill in accordance with 815 KAR 10:050.

Section 8. Clinical Staff Requirements. (1) An AODE shall ensure that all personnel receive ongoing training and supervision which enables them to carry out their job duties. [and] The training and supervision shall be documented.

(a) A clinician shall complete a minimum of twenty (20) hours of training in alcohol and other drug abuse counseling annually.

(b) A clinical services supervisor shall complete twelve (12) hours of specialized training in clinical supervision, and a clinician who provides case management [case manager] shall complete twelve (12) hours of specialized training in case management, within one (1) year from the effective date of this administrative regulation or within six (6) months from the date of assuming responsibility for that function, whichever is later.

(2) An AODE shall designate a clinical services supervisor, who shall provide supervision at one (1) or more facilities and who has [with] overall responsibility for treatment services in a detoxification, residential, residential transitional living pursuant to Section 13(1) and (2) of this administrative regulation, outpatient or intensive outpatient program.

(a) Except as provided in paragraph (c) of this subsection, the clinical services supervisor shall be:

1. [who meets one (1) of the following requirements:

(a) A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089, who has 4000 hours of [at least two (2) years full-time] clinical work experience post certification [if an academic degree is required for certification it shall be from an accredited college or university]; or

2. [(b)] An individual [who is licensed or certified as one (1) of the following and who meets the requirements of paragraph (b) [(c)] of this subsection:

a. [(1)] 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. [(2)] 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. [(3)] Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;

d. [(4)] Certified psychologist with autonomous functioning certified to function without supervision, in an area specified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

e. Certified psychologist with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology in accordance with the requirements and limitations established in KRS 319.056;

f. [(5)] Psychological associate with 6000 hours of postcertification practice certified by the Kentucky Board of Examiners of Psychology [to provide a service under the supervision of a licensed psychologist] in accordance with the requirements and limitations established in KRS 319.064;

g. [(6)] 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;

h. [(7)] Certified social worker with 6000 hours of postcertification clinical practice in psychiatric social work licensed [certified] by the Kentucky Board of [Examiners of] Social Work [to provide a service under the supervision of a certified social worker licensed for independent practice of clinical social work] in accordance with KRS 335.080;

i. [(8)] Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in psychiatric nursing from an accredited college or university and 6000 hours of clinical experience in psychiatric nursing;

j. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a bachelor's degree in nursing from an accredited college or university who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has 6000 hours of clinical experience in psychiatric nursing; [9-Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314.042];

k. [(10)] Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;

l. [(11)] Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or

m. [(12)] Certified professional art therapist certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with the provisions of KRS 309.130. [;]

(b) [(c)] A certified or licensed professional meeting the requirements established in [the previous] paragraph (a)2 [(b)] of this subsection shall have [meet the following additional requirements]:

1. [Has] Completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of assuming responsibility as a clinician in the AODE or within two (2) years immediately after assuming responsibility as a clinician in the AODE; and

2. 4000 hours of [Has at least two (2) years] work experience in the alcohol and other drug treatment field post degree.

(c) A person shall qualify as a clinical services supervisor under this administrative regulation if, on the effective date of this administrative regulation, the person:

1. Met the requirements for clinical services supervisor as established in 908 KAR 1:050 and 908 KAR 1:190;

2. Had been a clinical services supervisor for at least five (5) years; and

3. Was employed as a clinical services supervisor in a licensed nonmedical alcohol treatment and education (NATE) center program or drug abuse treatment and education (DATE) center program.

(3) An AODE shall establish a policy prohibiting a clinical

services supervisor from supervising ~~[shall sign an agreement documenting he will not supervise]~~ his spouse, ~~[spousal partner,]~~ child, stepchild, sibling, parent, stepparent, grandparent, grandchild, aunt, uncle, niece, nephew, or in-law.

(4) Clinicians.

(a) A clinician shall be: ~~[Staff who conduct clinical assessments, develop treatment plans, lead counseling sessions, or provide case management shall meet one (1) of the following requirements:]~~

1. ~~[(a)]~~ A certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089; ~~[If an academic degree is required for certification it shall be from an accredited college or university];~~

2. ~~[(b)]~~ An individual~~;~~ who is licensed or certified as one (1) of the following and who meets the requirements of paragraph **(b) [(c)]** of this subsection:

a. ~~[1:]~~ 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. ~~[2:]~~ 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. ~~[3:]~~ Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;

d. ~~[4:]~~ Certified psychologist with autonomous functioning certified ~~[to function without supervision, in an area specified]~~ by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

e. Certified psychologist certified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

f. ~~[5:]~~ Psychological associate certified by the Kentucky Board of Examiners of Psychology ~~[to provide a service under the supervision of a licensed psychologist]~~ in accordance with KRS 319.064;

g. ~~[6:]~~ 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;

h. ~~[7:]~~ Certified social worker certified by the Kentucky Board of ~~[Examiners of]~~ Social Work ~~[to provide a service under the supervision of a certified social worker licensed for independent practice of clinical social work]~~ in accordance with KRS 335.080;

i. ~~[8:]~~ Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a masters degree in ~~[psychiatric]~~ nursing from an accredited college or university;

j. ~~[9:]~~ Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314; ~~[under the supervision of an independent practitioner and]~~ with one (1) of the following combinations of education and work experience:

(i) ~~[a:]~~ Bachelor of science in nursing from a four (4) year program from an accredited college or university and **2000 hours of [one (1) year] clinical work experience in the substance abuse or mental health field;**

(ii) ~~[b:]~~ Diploma graduate in nursing from a three (3) year program and **4000 hours of [two (2) years] clinical work experience in the substance abuse or mental health field;** or

(iii) ~~[c:]~~ Associate degree in nursing from a two (2) year program from an accredited college or university and **6000 hours of [three (3) years] clinical work experience in the substance abuse or mental health field;**

k. ~~[10:]~~ Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing in accordance with KRS 314.042;

l. ~~[11:]~~ Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335;

m. ~~[12:]~~ Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or

n. ~~[13:]~~ Certified **professional art therapist certified [licensed]** by the Kentucky Board of Certification for Professional ~~[Licensure of]~~ Art Therapists in accordance with the provisions of KRS 309.130; or

3. An individual with a bachelors degree or greater in any field from an accredited college or university, working under the supervision of a clinical services supervisor in accordance with subsection (2) of this section, and who, under supervision:

a. Receives at least four (4) hours of face-to-face supervision monthly; and

b. Has all treatment plans cosigned by the clinical services supervisor.

~~[(b) [(c)]]~~ A certified or licensed professional meeting the requirements ~~established in [the previous] paragraph (a)2 [(b)]~~ of this subsection shall have completed eighty (80) hours of training in alcohol and other drug abuse counseling, within four (4) years immediately prior to the date of assuming responsibility as a clinician in the AODE, or within two (2) years immediately after assuming responsibility as a clinician in the AODE; ~~or~~

~~[(d)]~~ An individual with a bachelors degree or greater in any field from an accredited college or university, working under the supervision of a clinical services supervisor in accordance with subsection (2) of this section, and who is supervised according to the following:

1. Has access to a supervisor at all times and receives at least four (4) hours of face-to-face supervision monthly to include case consultation; and

2. Has all treatment plans cosigned by the clinical services supervisor.

~~[(5)]~~ A clinical services supervisor shall develop and update annually, a written individual plan of supervision, based on an individual's skills, for a clinician who meets the requirements of subsection ~~(4)(d)~~ of this section. The plan of supervision shall include:

~~[(a)]~~ Name of the clinical services supervisor and clinician;

~~[(b)]~~ Objectives to increase clinical competency; and

~~[(c)]~~ A dated signature of the clinical services supervisor and clinician agreeing to the plan of supervision].

~~[(5) [(6)]]~~ A clinical services supervisor shall maintain for a clinician he supervises documentation [a record] of each supervisory session which includes the date, length of the session and content of the supervision.

(6) Staff working in a residential transitional living program, where counseling services are not provided on site, shall meet the credentialing and training requirements established in Section 13(3)(g) of this administrative regulation. [An AODE shall ensure that all personnel receive training which enables them to carry out their job duties, either through AODE sponsored in-service training or through an outside source. A clinician shall complete eight (8) clock hours of alcohol and drug abuse training annually.

(2) An AODE shall designate a clinical services supervisor with overall responsibility for treatment services who meets the following requirements:

(a) Has two (2) years full-time clinical work experience post certification or post degree and the qualifications for a clinician in subsection ~~(4)(b) or (c)~~ of this section; and

(b) Successfully completes a division approved training in clinical services supervision within one (1) year from the effective date of this administrative regulation or within six (6) months from the date of assuming responsibility for clinical supervision with the AODE, whichever is later.

(3) A clinical services supervisor shall sign a document stating he will not supervise his spouse, spousal partner, child, stepchild, sibling, parent, stepparent, grandparent, grandchild, aunt, uncle, niece, nephew, or in-law.

(4) A clinician shall be one (1) of the following:

(a) A clinical services supervisor in accordance with subsection (2) of this section;

(b) A certified alcohol and drug pursuant to KRS 309.080 to 309.089. An academic degree required for certification pursuant to KRS 309.080 to 309.089 shall be from an accredited college or university;

(c) An individual with an academic degree from an accredited college or university who completed eighty (80) clock hours of alcohol and other drug abuse training, within four (4) years immediately prior to the date of assuming responsibility as a clinician in the AODE or within two (2) years immediately after assuming responsibility as a clinician in the AODE, and is one (1) of the following:

1. 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;

2. 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.;

3. Licensed psychologist licensed to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;

4. Certified psychologist with autonomous functioning certified to function without supervision, in an area specified by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

5. Psychological associate certified by the Kentucky Board of Examiners of Psychology to provide a service under the supervision of a licensed psychologist in accordance with KRS 319.064;

6. Licensed 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;

7. Certified social worker certified by the Kentucky Board of Examiners of Social Work to provide a service under the supervision of a certified social worker licensed for independent practice of clinical social work in accordance with KRS 335.100;

8. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314 with a master's degree in psychiatric nursing from an accredited college or university;

9. Registered nurse licensed by the Kentucky Board of Nursing in accordance with KRS Chapter 314, under the supervision of an independent practitioner and with one (1) of the following combinations of education and work experience:

a. Bachelor of science in nursing from a four (4) year program from an accredited college or university and one (1) year clinical work experience in the substance abuse or mental health field;

b. Diploma graduate in nursing from a three (3) year program and two (2) years clinical work experience in the substance abuse or mental health field; or

c. Associate degree in nursing from a two (2) year program from an accredited college or university and three (3) years clinical work experience in the substance abuse or mental health field;

10. Licensed marriage and family therapist licensed by the Kentucky Board of Licensure of Marriage and Family Therapists in accordance with the provisions of KRS Chapter 335; or

11. Certified professional counselor certified by the Kentucky Board of Certification for Professional Counselors in accordance with the provisions of KRS Chapter 335; or

(d) An individual with a bachelor's degree from an accredited college or university shall work under the supervision of a clinical services supervisor, who meets the requirements in subsection (2) of this section, according to the following:

1. Completes twenty (20) clock hours of training in alcohol and other drug abuse annually;

2. Receives daily supervision and one (1) hour of face-to-face case consultation weekly;

3. Has all treatment plans cosigned by the clinical services supervisor;

4. Has all progress notes cosigned by the clinical services supervisor during the first three (3) months of employment with an AODE; and

5. Continues to receive training and supervision in accordance with subparagraphs 1, 2 and 3 of this paragraph, unless the individual achieves the requirements in paragraphs (b) and (c) of this subsection:

(5) An AODE shall ensure that a clinician is the only individual who is assigned client cases and who performs the following:

(a) A clinical assessment;

(b) Development and implementation of a client's treatment plan; and

(c) Leads a counseling session;

(6) An individual who provides case management shall:

(a) Meet the requirements for a clinician in accordance with subsection (4) of this section; and

(b) Successfully complete a division approved training in alcohol and other drug abuse case management within one (1) year of the

effective date of this administrative regulation or within six (6) months from the date of assuming responsibility for case management services with the AODE, whichever is later:

(7) A clinical services supervisor shall develop and update annually, a written individual plan of supervision for a clinician or case manager under his supervision, which shall be based on the individual's level of skill, and shall include:

(a) Name of the clinical services supervisor and clinician or case manager;

(b) Clinician or case manager's clinical strengths and weaknesses;

(c) Goals and objectives to increase clinical competency;

(d) Length and frequency of a supervisory session; and

(e) A dated signature of the clinical services supervisor and clinician or case manager agreeing to the individual plan of supervision.

(8) A clinical services supervisor shall maintain, for a clinician or case manager he supervises, documentation of the following:

(a) A signed plan of supervision; and

(b) A record of a supervisory session to include the date, length of the session and content of the supervision.]

Section 9. Client Rights. (1) An AODE shall have written policies and procedures to ensure that the rights of a client are protected while participating in a treatment program.

(2) An AODE shall have a policy requiring that a notice of client rights is conspicuously posted [post] in a public area of each facility and [a notice of client rights, which] shall include the address and telephone number of the AODE's and the cabinet's ombudsman [ombudsperson]. If [When] there is only one (1) individual working in the AODE, a notice of client rights shall include only the address and telephone number of the cabinet's ombudsman [ombudsperson].

(3) A client shall not be unlawfully discriminated against in determining eligibility for a treatment program.

(4) During a program's intake procedures, [;] a client shall sign a [client rights] statement[;] which specifies [shall be placed in the client's record, and shall specify] a client has the right to:

(a) Give informed consent to receive a service [treatment].

1. An adult shall sign an informed consent to receive a service [treatment].

2. A juvenile, or the parent or guardian of a juvenile, shall sign an informed consent for a juvenile to receive a service [treatment] in accordance with KRS 222.441;

(b) Have input into his treatment and [;] case management plans [or referral plan] and be informed of their [its] content;

(c) Receive individualized treatment;

(d) File a grievance, recommendation or opinion regarding the services he receives [his treatment];

(e) Give informed written consent regarding participation in a research study with the exception of a juvenile whose parent or guardian shall give informed written consent;

(f) Confidentiality [Confidential treatment] according to the following:

1. A federally-assisted AODE [agency] in accordance with 908 KAR 1:320; or [and]

2. A nonfederally-assisted AODE [agency] in accordance with KRS 222.271(1);

(g) Request a written statement of the charge for a service and be informed of the policy for the assessment and payment of fees;

(h) Be informed of the rules of client conduct, including the consequences for the use of alcohol and other drugs or other infractions that may result in disciplinary action or discharge;

(i) Be treated with consideration, respect, and personal dignity;

(j) Review his client record in accordance with AODE policy; and

(k) Receive one (1) free copy of his client record in accordance with KRS 422.317.

(5) A [residential] program providing twenty-four (24) hour care shall also specify on the client rights statement that a client has the right to:

(a) Vote in a political election;

(b) Reasonable accommodations to afford privacy in bathing and toileting; and

(c) Privileges in accordance with KRS 222.271(2).

(6) If the client is restricted from exercising a client right be-

cause it is contraindicated by the [a] client's physical or mental condition, there shall be documentation in the [a] client record of the reason for the restriction and of the explanation given to the [a] client.

Section 10. Program Operations. (1) [An] AODE's policies and procedures shall include:

(a) [shall have] A written description for each program including [which shall include] philosophy, mission statement, goals, [and] objectives and staffing;

(b) ;

(2) Admission, readmission, discharge, and transfer criteria including [and procedures for making a referral within or outside an AODE shall be established in writing and include] the categories of individuals accepted and not accepted into a program; and

(c) Procedures for making a referral within or outside an AODE.

(2) [(3) When a client has a need for a service listed in paragraphs (a)-(i) of this subsection, identified in his treatment plan, case management plan or referral plan, the AODE shall provide the service directly if the AODE is a qualified provider of the service or through referral to an appropriately licensed, certified or accredited provider.

(a) Physical health services including tuberculosis skin testing, human immunodeficiency virus testing and counseling, prenatal care, dental care, and primary care;

(b) Mental health, mental retardation and developmental disability services;

(c) Visual, speech or hearing disability services;

(d) Primary, secondary, and special education in accordance with state and local laws and regulations;

(e) Preparation for a general education development equivalency certificate or other adult education;

(f) Vocational rehabilitation;

(g) Services to an individual convicted of driving under the influence in accordance with 908 KAR 1:310;

(h) Training in daily living skills;

(i) Case management services to include the development of a written case management plan signed by a client, which includes an assessment of a client's need for a service and strategies for obtaining a service, and which may be included in a client's treatment plan;

(4) An AODE which provides services to juveniles shall have written policies and procedures to ensure the following:

(a) Services and educational materials shall be age appropriate; and

(b) With the written consent of a juvenile, the family shall be involved in a juvenile's treatment to the extent possible and appropriate.

(3) [(5)] An AODE shall have a uniform client record system for each program which shall include the following requirements:

(a) A separate legible written or electronic record shall be established [maintained] for each client and shall be:

1. Retained for five (5) years from the last date of service for an adult client age eighteen (18) and over;

2. Retained until age twenty-one (21) for a client who received a service under age eighteen (18), or for five (5) years from the last date of a service, whichever is longer;

3. Kept [Stored] in a locked container [cabinet and] accessible only to authorized personnel and maintained in a licensed AODE facility unless being transported to another licensed AODE facility; and

4. Kept confidential [according to the following:

a. A federally assisted AODE in accordance with 908 KAR 1:320; or

b. A nonfederally-assisted AODE in accordance with KRS 222.271(1);

(b) A client record shall include the:

1. Application for admission including intake information;

2. Psychosocial, [and a health status questionnaire or a copy of a physical health examination] except in a detoxification program, or a residential transitional living program where counseling services are not provided on site;

3. Health status questionnaire or a copy of the record of a

physical health examination; [Supplemental assessments and evaluations when available];

4. Consent form, fee agreement, and client rights statement, each signed by the client;

5. Treatment plan, or in a detoxification program, [either] a treatment plan or a standard treatment protocol [and in a halfway house a referral plan];

6. [Case management plan if separate from the treatment plan;

7.] Aftercare plan;

7. [8.] Progress notes;

8. [9.] Authorization for release of information signed by a client; and [according to the following:

a. A federally assisted AODE in accordance with 908 KAR 1:320; or

b. A nonfederally-assisted AODE in accordance with KRS 222.271(1);

9. [10.] Discharge summary;

(c) An entry in a client record shall include a signature and credential of the individual who delivered a service and the date the [a] service was provided; and

(d) All information regarding a client's human immunodeficiency virus status shall be kept confidential in accordance with KRS 214.181 and 214.625. [Procedure for destroying a client record after the required period of retention to include:

1. A written record shall be burned or shredded; and

2. An electronic record shall be destroyed according to the following:

a. An AODE shall designate an individual as a computer security administrator who shall approve the destruction of electronic data to ensure the information has been deleted and is unrecoverable;

b. Information shall be deleted from magnetic media by complete degaussing, electronic overwriting, or physical destruction by shredding; and

c. Magnetic media which has been through a deletion process, with the exception of physical destruction by shredding, shall be tested periodically to validate the continued effectiveness of the deletion.]

(4) [(6)] An AODE shall have [a] written policies and procedures governing client grievances [grievance procedure] to include the following requirements:

(a) Identification of an AODE ombudsman [ombudsperson];

(b) A process for filing a written client grievance;

(c) An appeals process with time frames for filing and responding to a grievance in writing;

(d) Protection for a client from interference, coercion, discrimination, or reprisal; and

(e) Conspicuously posting in a public area of each facility grievance procedures informing a client of:

1. A right to file a grievance;

2. A process for filing a grievance; and

3. The address and telephone number of the AODE's and cabinet's ombudsman. [ombudsperson except] In an AODE where only one (1) individual is working, the notice shall contain the address and telephone number of the cabinet's ombudsman [ombudsperson];

(f) An AODE ombudsperson shall document a grievance in a central AODE client grievance file; and

(g) An AODE ombudsperson shall refer a grievance regarding an allegation of abuse or neglect to an appropriate authority in accordance with:

1. KRS 209.030 regarding the abuse or neglect of an adult; or

2. KRS 620.030 regarding the abuse or neglect of a child;

(7) An AODE shall conspicuously post a fee schedule in a public area of each facility].

(5) [(8)] If alcohol or drug testing is conducted as part of assessment, treatment, or discharge, there shall be written policies and procedures outlining the screening process and the consequences for testing positive.

(6) [(9)] An AODE shall have a written policy prohibiting [governing] the use of alcohol and illegal [other] drugs by a client or visitors while in the program. [An AODE shall have a written description for a program which shall include:

(a) Philosophy, mission statement, goals and objectives;

(b) Client population served including age groups and services provided;

(c) Staffing patterns outlined on an organizational chart showing job positions, titles, and a line of authority except when there is only one (1) individual working in the AODE;

(d) Admission and readmission criteria;

(e) Intake procedure;

(f) Discharge and transfer criteria and procedures; and

(g) Procedure for making a referral within or outside an AODE including a list of agencies having a written referral agreement with the AODE.

(2) An AODE shall have the following written policies and procedures regarding referral arrangements made for a client when a special need is identified in his treatment plan:

(a) Any client responsibilities for payment of services;

(b) Referral arrangements shall be documented in the client record; and

(c) When a client has a special need for one (1) of the following services, the AODE shall either provide the service directly or through referral. The service shall be delivered by an appropriately licensed, certified or accredited provider:

1. Physical health services including tuberculosis skin testing, human immunodeficiency virus testing and counseling, prenatal care, dental care, physical examination and other primary care services;

2. Mental health, mental retardation and developmental disability services;

3. Emergency medical services including a written agreement with outside medical resources and notification of the emergency contact person on a client's admission application;

4. Visual, speech or hearing disability services including auxiliary aids which make communication accessible to the client in accordance with the Americans with Disabilities Act, 42 USC 12101 et seq;

5. Primary, secondary, and special education in accordance with state and local laws and regulations;

6. Preparation for a general education development equivalency certificate or other adult education;

7. Vocational rehabilitation;

8. Services to an individual convicted of driving under the influence in accordance with 908 KAR 1:310;

9. Training in daily living skills;

10. Case management services to include:

a. The development of a written case management plan signed by a client which includes an assessment of a client's need for a service, identification of community resources and strategies for obtaining a service; and

b. Assignment of a case manager who shall be responsible for assisting a client in obtaining a community service, monitoring a client's progress and advocating on behalf of a client to obtain a service or to promote the development of a service;

(3) An AODE shall have written policies and procedures for services to juveniles which include the following:

(a) Services and educational materials shall be age appropriate; and

(b) With the written consent of a juvenile, the family shall be involved in a juvenile's treatment, and documentation of an attempt to involve the family shall be included in a client record;

(4) An AODE shall ensure that a clinical service is delivered in a private area, where others who are not participating in the service, will be unable to hear the content of a conversation during the delivery of a service;

(5) An AODE shall have a uniform client record system for a program which shall include the following requirements:

(a) A separate legible written or electronic record shall be maintained for a client and shall be:

1. Retained for five (5) years from the last date of service for an adult client age eighteen (18) and over;

2. Retained until age twenty-one (21) for a client who received a service under age eighteen (18), or for five (5) years from the last date of a service, whichever is longer;

3. Stored in a locked cabinet and accessible only to authorized personnel; and

4. Kept confidential according to the following:

a. A federally-assisted agency in accordance with 908 KAR 1:320;

and

b. A nonfederally-assisted agency in accordance with KRS 222.271(1);

(b) A client record shall include:

1. Application for admission;

2. Psychosocial assessment, health status questionnaire or a copy of a physical health examination. A detoxification program is exempt from this standard;

3. Supplemental assessment and evaluation when available;

4. Consent to treatment, fee agreement, and client rights statement, each signed by a client;

5. Treatment plan or in a detoxification program either a treatment plan or a treatment plan protocol;

6. Case management plan signed by a client. A detoxification program is exempt from this standard;

7. Aftercare plan signed by a client. A detoxification program and an outpatient treatment program are exempt from this standard;

8. Progress notes;

9. Report from an outside agency or an individual when available;

10. Authorization for release of information signed by a client, according to the following:

a. A federally-assisted agency in accordance with 908 KAR 1:320;

and

b. A nonfederally-assisted agency in accordance with KRS 222.271(1); and

11. Discharge summary;

(c) An entry in a client record shall include a signature and credential of the individual who delivered a service and the date a service was provided; and

(d) Procedure for destroying a client record after the required period of retention to include:

1. A written record shall be burned or shredded; and

2. An electronic record shall be destroyed according to the following:

a. An AODE shall designate an individual as a computer security administrator who shall approve the destruction of electronic data to ensure the information has been deleted and is unrecoverable;

b. Information shall be deleted from magnetic media by complete degaussing, electronic overwriting, or physical destruction by shredding; and

c. Magnetic media which has been through a deletion process, with the exception of physical destruction by shredding, shall be tested periodically to validate the continued effectiveness of the deletion;

(6) An AODE shall have a written client grievance procedure to include the following requirements:

(a) Identification of an AODE ombudsperson;

(b) A process for filing a written client grievance;

(c) An appeals process with time frames for filing and responding to a grievance in writing;

(d) Protection for a client from interference, coercion, discrimination, or reprisal;

(e) Conspicuously posting in a public area of a facility a notice informing a client of:

1. A right to file a grievance;

2. A process for filing a grievance; and

3. An address and telephone number of the AODE's and cabinet's ombudsperson;

(f) An AODE ombudsperson shall document a grievance in a central AODE client grievance file; and

(g) An AODE ombudsperson shall refer a grievance regarding an allegation of abuse or neglect to an appropriate authority in accordance with:

1. KRS 209.030 regarding the abuse or neglect of an adult; and

2. KRS 620.030 regarding the abuse or neglect of a child;

(7) An AODE shall have a written policy regarding client fees to include:

(a) A fee schedule shall be conspicuously posted in a public area of a facility; and

(b) There shall be a policy for setting and collecting client fees;

(8) If an AODE requires a client to be screened for the presence of alcohol or other drugs there shall be written policies and procedures regarding the taking and testing of a blood and urine sample, chain of custody, confidentiality of a sample and a result, and any conse-

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quences if a client tests positive.

~~(9) An AODE shall have a written policy governing the use of alcohol and other drugs by a client, or a visitor while in the program.]~~

Section 11. Detoxification Program. In addition to the **requirements established** [standards] in Sections 1 through 10 of this administrative regulation, the following **requirements** [standards] shall be met in a detoxification program.

(1) At admission, a client shall receive an assessment [in accordance with an assessment protocol, developed in consultation with a physician, and documented in a client record] to determine if the [a] client is intoxicated or in withdrawal, the severity of the [a] client's physical and mental condition, and a need for emergency medical care. The assessment shall be in accordance with an assessment protocol developed in consultation with a physician and documented in the client's record.

(2) Within twenty-four (24) hours of admission, the following information shall be obtained from a client and documented in the [a] client record:

- (a) Client identifying and demographic information;
- (b) Emergency contact person;
- (c) Presenting problem;
- (d) History of alcohol and other drug use including problems and previous treatment related to the abuse of alcohol or [and] other drugs;
- (e) History and previous treatment for a physical problem including delirium tremens, seizures, heart disease, liver disease, and infectious disease including tuberculosis, hepatitis, and human immunodeficiency virus;
- (f) History and previous treatment for a mental health problem, mental retardation, and a developmental disability;
- (g) Assessment of pregnancy [status] based on a client's self-report [or a pregnancy test]; and
- (h) Signed consent to treatment.

(3) ~~[A reason for not obtaining the information in subsection (2) of this section, within twenty-four (24) hours, shall be documented in a client record.]~~

(4) A written treatment plan based on the assessment shall be completed for the [a] client within forty-eight (48) hours of admission, revised as new information is received, ~~[documented in a client record]~~ and include:

- (a) Presenting problem;
- (b) Identification of a client problem;
- (c) Type of service to be provided including [a] referrals ~~[within or outside the AODE]~~;
- (d) Criteria for discharge;
- (e) Staff person primarily responsible for coordinating the [a] client's care; and
- (f) Client's signature ~~[Documentation that a treatment plan has been explained to a client and the extent to which a client agrees with the plan].~~

(4) [(5)] A treatment plan protocol may be used in place of an individualized treatment plan. An [and any] exception to the protocol shall be documented in the [a] client record.

(5) [(6)] A progress note shall:

(a) be recorded ~~[in a client record]~~ following the delivery of a professional service and

(b) include the [a] service provided, an observation of the client's behavior and response to the [a] service, and the [a] client's progress toward meeting the goals and objectives of the [a] treatment plan.

(6) [(7)] An aftercare [discharge] plan shall be developed with a client's participation ~~[documented in a client record]~~; and include a referral to:

- (a) alcohol and other drug abuse treatment or [at an appropriate level of care];
- (b) A self-help group specific to addiction recovery; and
- (c) a community service which may include a self-help group, housing, medical, and social services needed by the client.

(7) [(8)] A discharge summary shall be completed within thirty (30) calendar days of discharge ~~[documented in a client record]~~; and include:

- (a) Date of admission and discharge;
- (b) Presenting problem;
- (c) Summary of treatment and response to treatment; and

(d) Referrals made to another organization or provider.

(8) [(9)] The pulse~~[temperature]~~ and blood pressure of a client shall be monitored three (3) times daily ~~[in accordance with an AODE protocol, developed in consultation with a physician]~~ and documented in the [a] client record.

(9) [(10)] A client shall receive [daily] counseling, education, and orientation to self-help groups specific to addiction recovery, as soon as he is physically and mentally capable, with a primary focus on motivating a client to continue in treatment after discharge.

(10) [(11)] A client shall be provided an opportunity to meet with a self-help group and other outside service providers as soon as he is physically and mentally capable.

(11) [(12)] There shall be written policies and procedures on the use of medication by a client which shall include:

(a) Prescription and over-the-counter medication brought with a client shall be recorded in the [a] client's record upon admission;

(b) A policy on self-administration of an over-the-counter medication to include the identification of medication which ~~[shall]~~ requires physician approval prior to use by a client;

(c) A program without a physician on staff shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in paragraph (b) of this subsection is not contraindicated with the [a] treatment plan, and the verification shall be documented in the [a] client record;

(d) Prescription and over-the-counter medication shall be stored in a locked, secure location inaccessible to a client;

(e) Medication shall ~~[only]~~ be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the [a] label; and

(f) Self-administration of prescription and over-the-counter medication shall be documented in the [a] client record and include:

1. Name of the medication;
2. Date and time of self-administration;
3. Dosage and amount of medication; and
4. Name of the [a] staff person who monitored the self-administration of the [a] medication.

(12) [(13)] Food services shall be provided according to the following:

(a) ~~[Meals shall be provided]~~ In accordance with 902 KAR 45:005, **A copy of the food service permit shall be maintained on site; and**

(b) There shall be documentation that meal planning is approved by a registered dietician;

(c) ~~A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be documented in a client record;~~

(d) ~~A client shall receive three (3) meals daily with no more than a fifteen (15) hour span between an evening meal and breakfast; and~~

(e) ~~Snacks shall be provided.~~

(13) [(14)] [Staffing:

(a) A program shall be staffed twenty-four (24) hours a day, seven (7) days a week, and ~~[an AODE shall ensure that]~~ staff shall include:

(a) [1:] A program manager, supervisor or coordinator;

(b) [2:] At least two (2) staff per shift with one (1) trained in crisis intervention, cardiopulmonary resuscitation and standard first aid ~~[emergency procedures]~~; and

(c) [3:] Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet the staffing requirements.

(b) ~~If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet the staffing requirements.]~~

(14) [(15)] Before working alone, ~~[Training shall be provided according to the following:~~

(a) ~~Within three (3) months of the date of employment;~~ a staff person shall be trained in:

(a) [1:] Monitoring the vital signs of pulse~~[temperature]~~ and blood pressure;

(b) [2:] Crisis intervention; [and]

(c) Cardiopulmonary resuscitation ~~[A minimum of twelve (12)~~

~~hours of training in [3-] cardiopulmonary resuscitation, in accordance with 902 KAR 13:050; [Section 7-] and~~

~~[4-] standard first aid conducted by a certified [an] instructor; [certified by the American Red Cross; and~~

~~(b) Within one (1) year of the date of employment a staff person shall be trained in:]~~

~~(d) [1-] The recognition of [a] problems associated with alcohol and other drug use, [i] [a] symptoms requiring referral for emergency care, [i] degree of intoxication, [i] [the] stages of withdrawal, [i] and the [a] physical or mental complications that may occur at each stage;~~

~~(e) [2-] Techniques for motivating a client to continue in treatment after discharge;~~

~~(f) [3-] Local and state resources including the [a] procedure for making a client referral; and~~

~~(g) [4-] Effects of alcohol and other drug use on a pregnant woman and her fetus including special detoxification needs during pregnancy, and recognition of when to refer a pregnant client for medical detoxification.~~

Section 12. Residential **Treatment Programs** [Treatment] [Program]. In addition to the **requirements established [standards]** in Sections 1 through 10 of this administrative regulation, the following **requirements [standards]** shall be met in [a] residential **programs [program]**.

(1) General residential.

(a) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from the [a] client.

(b) [(2)] An assessment shall be completed on each client and include:

1. A psychosocial which shall include:

a. Presenting problem;

b. History and treatment of alcohol and other drug abuse;

c. Current living arrangement;

d. Family relationships;

e. Legal, employment, military, educational and vocational

history;

f. Peer group relationships;

g. Religious background and practices;

h. History and treatment of mental retardation, a developmental disability or a mental health problem including emotional, physical and sexual abuse;

i. Ethnic and cultural background;

j. Leisure and recreational activities;

k. Client strengths and limitations; and

l. An evaluation of the client's alcohol and other drug abuse or dependency;

2. A mental status screening;

~~[(a) A psychosocial which shall include presenting problem; history and treatment of alcohol and other drug abuse; current living arrangement; family relationships; legal, employment, military, educational and vocational history; peer group relationships; religious background and practices; history and treatment of mental retardation, a developmental disability or a mental health problem including emotional, physical and sexual abuse; ethnic and cultural background; leisure and recreational activities; client strengths and limitations; and diagnostic impression;~~

~~[(b) A mental status examination which shall include a client's current mental condition including the identification of an abnormality in behavior, affect, thought, memory, orientation and contact with reality;]~~

3. [(c)] Completion of a physical health status questionnaire, which has been developed in consultation with a physician or a copy of the record of a physical health examination, which [i] and] includes at least:

a. [1-] History of medical problems;

b. [2-] Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;

c. [3-] Use of prescription and over-the-counter medication;

d. [4-] Allergies; and

e. [5-] Identification of a medical condition that may affect the client's participation in treatment; and

4. [(d)] A [diagnostic] summary of the client's needs based on

an analysis of all information from the client's assessment and which includes a recommended course of treatment.

(c) [(3)] A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation within six (6) calendar days of admission and include:

1. An evaluation of the client's alcohol and other drug abuse or dependency;

2. The client's problem;

3. Goals, measurable objectives and criteria for discharge;

4. Duration, frequency and type of service to be provided;

5. Referrals;

6. Staff person primarily responsible for developing the treatment plan; and

7. The client's signature. [diagnosis; a client's problem; goals, measurable objectives and criteria for discharge; duration, frequency and type of service to be provided; referrals; staff person primarily responsible for developing the treatment plan and the client's signature-]

(d) [(4)] A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client every two (2) weeks and be documented in the client's record.

(e) [(5)] Alcohol and other drug abuse counseling, including a focus on relapse prevention, shall be provided to each client. [and] If provided in a group, there shall be a maximum of fifteen (15) clients per clinician.

(f) [(6)] Education shall be provided to each client on the effects of alcohol and other drug abuse, the disease and recovery from alcoholism and other drug dependency, consistent with the client's treatment plan.

(g) [(7)] Orientation to self-help groups specific to addiction recovery shall be provided to each client.

(h) [(8)] A variety of Organized recreational activities shall be:

1. Provided to each client[;] under the direction of staff; and

2. [be] Part of the client's schedule.

(i) [(9)] A written aftercare plan shall:

1. Be developed for each client with the client's participation;

2. [i] Be based on the [a] client's needs at discharge; and

3. [and] Include activities and referrals supporting recovery from alcohol and other drug abuse.

(j) [(10)] A client shall have access to films, printed materials, and audio and video tapes related to the treatment of alcohol and other drug abuse.

(k) [(11)] Information or education about alcohol [alcoholism] and other drug dependency and recovery shall be made available to a client's family or significant other. [and] If a service is requested, it shall be provided either directly or through referral to a qualified outside provider.

(l) [(12)] A client shall receive forty (40) hours of structured activities weekly including alcohol and other drug abuse education; individual, group or family counseling; self-help group meetings and recreation. Ten (10) of the forty (40) hours of structured weekly activities shall be counseling services.

(m) [(13)] A progress note which includes the service provided, an observation of a client's behavior and response to the service and a client's progress toward meeting the goals and objectives of the treatment plan shall be recorded after an individual counseling session, and weekly in a summary note if a client receives multiple services.

(n) [(14)] A discharge summary shall be completed within thirty (30) calendar days of discharge and include the date of admission and discharge, presenting problem, an **evaluation of the client's alcohol and other drug abuse or dependency [diagnosis]**, summary of treatment and response to treatment and referrals made to another organization or provider.

(o) [(15)] A client shall be provided an opportunity to meet with a self-help group and other outside service providers.

(p) [(16)] If a client performs work in a program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the work shall be voluntary and consistent with his treatment plan.

(q) [(17)] There shall be written policies and procedures on the use of medication by a client which shall include:

1. [(a)] Prescription and over-the-counter medication brought

with a client shall be recorded in the client's record upon admission;

2. ~~[(b)] A policy on self-administration of over-the-counter medication to include the identification of medication which requires physician approval prior to use by a client while in the program;~~

3. ~~[(e)] A program without a physician on staff shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in subparagraph 2 of this paragraph [(b) of this subsection] is not contraindicated with the client's treatment plan, and the verification shall be documented in the client's record;~~

4. ~~[(d)] Prescription and over-the-counter medication shall be stored in a locked and secure location inaccessible to clients;~~

5. ~~[(e)] Medication shall be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the label; and~~

6. ~~[(f)] Self-administration of prescription and over-the-counter medication shall be documented in the client's record and include:~~

a. Name of the medication;

b. ~~[-]~~ Date and time of self-administration;

c. ~~[-]~~ Dosage and amount of medication; and

d. ~~[-and]~~ Name of the staff person who monitored the self-administration of the medication.

(r) ~~[(18)] Food services shall be provided according to the following:~~

1. ~~[(a) Meals shall be provided] In accordance with 902 KAR 45:005. A copy of the food service permit shall be maintained on site; and~~

2. ~~[(b)] There shall be documentation that meal planning is approved by a registered dietitian[;~~

~~(c) There shall be documentation that a client involved in preparing meals for other clients receives orientation in health and safety issues related to food preparation and that staff provides periodic monitoring;~~

~~(d) A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be documented in the client's record;~~

~~(e) A client shall receive three (3) meals daily with no more than a fifteen (15) hour span between an evening meal and breakfast; and~~

~~(f) Snacks shall be available[.~~

(s) ~~[(19)] A program shall be staffed twenty-four (24) hours a day, seven (7) days a week, and staff shall include:~~

1. ~~[(a)] A program manager, supervisor or coordinator;~~

2. ~~[(b)] Staffing capability to ensure that an appropriate staff person is responsible for managing a program in the absence of a program manager, supervisor or coordinator; and~~

3. ~~[(c)] Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements.~~

(t) ~~[(20)] There shall be at least one (1) staff person on duty at all times[;] who has completed training in crisis intervention and [a minimum of twelve (12) hours of training in] standard first aid, which includes cardiopulmonary resuscitation [in accordance with 902 KAR 13:050;] and is conducted by a certified instructor. [In addition to the standards in Sections 1 through 10 of this administrative regulation, the following standards shall be met for a residential treatment program:~~

~~(1) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from a client;~~

~~(2) A client shall receive the following services:~~

~~(a) An assessment which includes:~~

~~1. A psychosocial which shall include:~~

~~a. Presenting problem;~~

~~b. History of alcohol and drug use including previous treatment;~~

~~c. Current living arrangement including information regarding exposure to an individual who is engaging in the unhealthy or illegal use of alcohol or other drugs;~~

~~d. Family relationships including childhood and marital history, custody of children, sexual identity and partner relationship where indicated;~~

~~e. Legal history;~~

~~f. Employment and military service history;~~

~~g. Education and vocational history;~~

~~h. Social and peer group relationships;~~

~~i. Religious background and practices;~~

~~j. History and treatment of mental retardation, a developmental disability and a mental health problem including emotional, physical and sexual abuse;~~

~~k. Ethnic and cultural background;~~

~~l. Leisure and recreational activities;~~

~~m. Client strengths and limitations; and~~

~~n. Diagnostic impression;~~

~~2. An evaluation of a client's current mental condition including an identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality;~~

~~3. A copy of a physical examination completed by a medical professional within ninety (90) days of admission or completion of a physical health status questionnaire which has been developed in consultation with a physician and includes:~~

~~a. Review of body systems;~~

~~b. Surgery and treatment history;~~

~~c. Current medical condition;~~

~~d. Assessment of pregnancy status based on a client's self-report or a pregnancy test;~~

~~e. Assessment of tuberculosis, hepatitis and human immunodeficiency virus status;~~

~~f. Prescription and over-the-counter medication;~~

~~g. Allergies including an allergic reaction to a medication; and~~

~~h. Identification of a medical condition that may affect a client's participation in treatment;~~

~~4. Information from a written report regarding a previous assessment and treatment if available; and~~

~~5. A diagnostic summary including an analysis of all assessment information and a recommended course of treatment;~~

~~(b) Treatment planning which includes:~~

~~1. A written individualized treatment plan based on an assessment shall be developed for a client within six (6) calendar days of admission and shall include:~~

~~a. Diagnosis;~~

~~b. Identification of a client's problem;~~

~~c. Goals, measurable objectives and criteria for discharge;~~

~~d. Duration, frequency and type of service to be provided including a referral within or outside an AODE;~~

~~e. Staff person primarily responsible for implementing a treatment plan; and~~

~~f. Date for treatment plan review;~~

~~2. There shall be documentation in a client record that a treatment plan has been explained to a client and the extent to which a client agrees with the plan; and~~

~~3. Case review of a treatment plan and a client's progress shall be conducted every two (2) weeks and documented in a client record;~~

~~(c) Alcohol and other drug abuse counseling shall be provided according to the following:~~

~~1. There shall be a focus on problems related to alcohol and other drug abuse;~~

~~2. There shall be individual counseling, group counseling, or family counseling; and~~

~~3. A counseling service provided in a group shall have a maximum of fifteen (15) clients;~~

~~(d) Education on the effects of alcohol and other drug abuse, the disease and recovery from alcoholism and other drug dependency, consistent with a client's treatment plan;~~

~~(e) Orientation to self-help groups specific to addiction recovery;~~

~~(f) A variety of organized recreational activities which shall be under the direction of staff and part of a client's schedule;~~

~~(g) Relapse prevention which includes:~~

~~1. A written relapse prevention plan shall be developed for a client who completes treatment; and~~

~~2. A copy shall be given to a client and a summary of a relapse prevention plan shall be included in a client record as part of a progress note, discharge summary or aftercare plan; and~~

~~(h) Aftercare planning which shall include a written aftercare plan developed with a client's participation, based on a client's need at~~

discharge, which includes activities supporting recovery from alcohol and other drug abuse, and a referral for continuing care.

(3) A client shall have access to films, printed materials, and audio and video tapes related to the treatment of alcohol and other drug abuse and recovery from alcoholism and other drug dependencies.

(4) Information or education about alcoholism and other drug dependency and recovery shall be made available to a client's family or significant other and if a service is requested it shall be provided either directly by an AODE or through referral to a qualified outside provider.

(5) A client shall receive forty (40) hours of structured activities weekly which include alcohol and other drug abuse education; individual, group or family counseling; self-help group meetings specific to addiction recovery; and recreation. Ten (10) of the forty (40) hours of structured weekly activities shall be counseling services.

(6) A progress note shall be recorded:

(a) Following the delivery of an individual counseling session and include a service provided, an observation of a client's behavior and response to the service, and a client's progress toward meeting the goals and objectives of the treatment plan; or

(b) Weekly, in a summary note, following the delivery of multiple services, with the exception of an individual counseling session, which shall be recorded in accordance with paragraph (a) of this subsection. A weekly summary note shall identify the services provided to a client during the week, a client's behavior and response to the services, and a client's progress toward meeting the goals and objectives of a treatment plan.

(7) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:

- (a) Date of admission and discharge;
- (b) Presenting problem;
- (c) Diagnosis;
- (d) Summary of treatment and response to treatment; and
- (e) Referral made to another organization or provider.

(8) A client shall be provided an opportunity to meet with a self-help group and other outside service providers.

(9) If a client performs work in a program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the work shall be voluntary and consistent with his treatment plan.

(10) There shall be written policies and procedures on the use of medication by a client which shall include:

- (a) Prescription and over-the-counter medication brought with a client shall be recorded in a client's record upon admission;
- (b) A policy on self-administration of an over-the-counter medication to include the identification of medication which shall require physician approval prior to use by a client;
- (c) A program shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in paragraph (b) of this subsection, is not contraindicated with a treatment plan, and the verification shall be documented in a client record;

(d) Prescription and over-the-counter medication shall be stored in a locked, secure location inaccessible to a client;

(e) Medication shall only be available to a client at the time it is scheduled to be taken according to a prescription or as directed on a label; and

(f) Self-administration of prescription and over-the-counter medication shall be documented in a client record and include:

- 1. Name of the medication;
- 2. Date and time of self-administration;
- 3. Dosage and amount of medication; and
- 4. Name of a staff person who monitored the self-administration of a medication.

(11) Food services shall be provided according to the following:

- (a) Meals shall be provided in accordance with 902 KAR 45:005;
- (b) There shall be documentation that meal planning is approved by a registered dietician;

(c) A client involved in preparing meals shall be monitored by a staff person and there shall be documentation that a client receives orientation in health and safety issues related to food preparation;

(d) A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be documented in a client record;

(e) A client shall receive three (3) meals daily with no more than a fifteen (15) hour span between an evening meal and breakfast; and

(f) Snacks shall be available:

(12) Staffing:

(a) A program shall be staffed twenty-four (24) hours a day, seven (7) days a week, and an AODE shall ensure that staff include:

- 1. A program manager, supervisor or coordinator;
- 2. At least one (1) staff person trained in emergency procedures per shift; and
- 3. Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered.

(b) If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements.

(13) Within three (3) months of the date of employment, a staff person shall be trained in crisis intervention, cardiopulmonary resuscitation in accordance with 902 KAR 13:050, Section 7, and standard first aid conducted by an instructor certified by the American Red Cross.]

(2) [Section 13.] Family residential [Treatment] program. In addition to the requirements established [standards] in subsection (1) of this section [Sections 1 through 10 and 12 of this administrative regulation], the following requirements [standards] shall be met for a family residential [treatment] program.

(a) [(1)] [A family residential treatment program shall meet the standards for a residential treatment program in Section 12 of this administrative regulation.

(2)] A client with a need identified in a treatment plan shall receive training on parenting.

(b) [(2)] There [(3) An AODE] shall be [have] written policies on children to include:

- 1. [(a)] Maximum number of children [who are] permitted to reside in the facility at one (1) time;
- 2. [(b)] Age of children [who are] permitted to reside in the facility;
- 3. [(c)] A client shall sign a statement outlining his [client's] responsibility for his children while in the facility to include:

a. [(1)] A client shall have primary responsibility for ensuring that a child's needs are met regarding food, clothing, hygiene, safety, discipline, supervision and follow-up on a referral to a community resource for the children who reside with him in the facility; and]

b. [(2)] A client shall make prior arrangements for the care of his children if [in the event] he leaves the facility without his children[, with [or without] staff approval]; and

c. [(3)] A client shall identify, in writing, an emergency contact person, who will be responsible for the care of his children if he leaves the facility;

4. Identification of community resources including education and child care;

5. [without staff approval, and

[(d)] A client shall sign a statement agreeing to the policies in paragraph (c) of this subsection and the statement shall be included in a client's record;

(e) An AODE shall contact the Cabinet for Families and Children shall be contacted [, if the [an individual] designated individual [by a client as responsible for the care of his children in his absence,] is not located; and

(d) [(f)] A client shall have access to milk and baby formula for his children at all times.

(3) [(4)] A client's children shall receive the following services:

(a) [A physical health, mental health, mental retardation and developmental disability screening to determine the need for a referral to an outside qualified provider;

(b)] A written case management plan[, which shall be] developed within six (6) calendar days of admission with a child's participation to the extent possible and signed by the parent, which is updated monthly and includes {

- 1.] identified service needs and [for a service;
- 2.] identification of community resources;
- 3.] strategies and referrals for obtaining [a] services;
- 4.] Name of a case manager who shall be responsible for assisting a parent in obtaining a community service for his child; and
- 5.] Signature of the parent residing with the child in the facility;

(b) [(c)] Education about the effect on a family and children when a parent or a parent's partner abuses alcohol or other drugs; and

6. [(e)] [(d)] [A variety of] Organized recreational activities [which] shall be provided under the direction of staff and posted on a schedule. [;]

(d) Day [(e) Child] care in a program licensed by the cabinet if a need is identified; and

(e) [(f)] Primary, secondary or special education in accordance with state and local laws and regulations if a need is identified.

(4) There shall be [(5) An AODE shall maintain] a separate record [for a client and] for each child residing with a client in a facility which includes the following information:

(a) Child's identifying and demographic information;

(b) Dates the child enters and leaves the program;

(c) Case management plan;

(d) Prescription and over-the-counter medication brought by the parent for a child's use while residing in the facility;

(e) Name of the medication, date and time of self-administration, dosage and amount of medication, and the name of the staff person who monitored the self-administration of the medication to the child; and

(f) Any limitations a child has that will prevent participation in an activity;

(5) There shall be sufficient staff to provide the following services to children: [(6) In addition to the staff requirements in Section 12 of this administrative regulation, a program shall have a staff person designated as:]

(a) Coordination of child-parent [A children and family] services [coordinator];

(b) Recreation; [A recreational leader;] and

(c) Case management. [A case manager.]

Section 14. Residential Transitional Living Program. In addition to the standards in Sections 1 through 10 of this administrative regulation, the following standards shall be met in a residential transitional living program if staff provide counseling on-site:

(1) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from a client.

(2) An assessment shall be completed on each client and include:

(a) A psychosocial which shall include presenting problem; history and treatment of alcohol and drug abuse; current living arrangement; family relationships; legal, employment, military, educational, and vocational history; peer group relationships; religious background and practices; history and treatment of mental retardation, a developmental disability or a mental health problem including emotional, physical and sexual abuse; ethnic and cultural background; leisure and recreational activities; client strengths and limitations; and diagnostic impression;

(b) A mental status examination which shall include a client's current mental condition including the identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality;

(c) Completion of a physical health status questionnaire, which has been developed in consultation with a physician, and includes at least:

1. History of medical problems;

2. Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;

3. Use of prescription and over-the-counter medication;

4. Allergies; and

5. Identification of a medical condition that may affect a client's participation in treatment; and

(d) A diagnostic summary based on an analysis of all information from the client's assessment and which includes a recommended course of treatment.

(3) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation within seven (7) calendar days of admission and include diagnosis; a client's problem; goals, measurable objectives and criteria for discharge; duration, frequency and type of service to be provided; referrals; staff person primarily responsible for developing the

treatment plan; and the client's signature.

(4) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client monthly and be documented in the client's record;

(5) Alcohol and other drug abuse counseling, including a focus on relapse prevention, shall be provided to each client and if provided in a group there shall be a maximum of fifteen (15) clients per clinician;

(6) Orientation to self-help groups specific to addiction recovery shall be provided to each client.

(7) A written aftercare plan shall be developed for each client with the client's participation, be based on a client's needs at discharge, and include activities and referrals supporting recovery from alcohol and other drug abuse;

(8) A progress note which includes the service provided, an observation of a client's behavior and response to the service, and a client's progress toward meeting the goals and objectives of the treatment plan shall be recorded after an individual counseling session, and weekly in a summary note if a client receives multiple services;

(9) There shall be documentation in a client's record that the client is either employed, pursuing employment, participating in vocational education, training or rehabilitation, or is receiving a disability benefit.

(10) A discharge summary shall be completed within thirty (30) calendar days of discharge and include the date of admission and discharge, presenting problem, diagnosis, summary of treatment and response to treatment, and referrals made to another organization or provider;

(11) A client shall be provided an opportunity to meet with a self-help group and other outside service providers;

(12) If a client performs work in a program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the work shall be voluntary and consistent with his treatment plan;

(13) There shall be written policies and procedures on the use of medication by a client which shall include:

(a) Prescription and over-the-counter medication brought with a client shall be recorded in a client's record upon admission;

(b) A policy on self-administration of over-the-counter medication to include the identification of medication which requires physician approval prior to use by a client while in the program;

(c) A program shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in paragraph (b) of this subsection is not contraindicated with the client's treatment plan, and the verification shall be documented in the client's record;

(d) Prescription and over-the-counter medication shall be stored in a locked and secure location inaccessible to clients;

(e) Medication shall be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the label; and

(f) Self-administration of prescription and over-the-counter medication shall be documented in the client's record and include name of the medication, date and time of self-administration, dosage and amount of medication, and name of the staff person who monitored the self-administration of the medication;

(14) Food services shall be provided according to the following:

(a) Meals shall be provided in accordance with 902 KAR 45:005;

(b) There shall be documentation that meal planning is approved by a registered dietitian;

(c) There shall be documentation that a client involved in preparing meals for other clients receives orientation in health and safety issues related to food preparation and that staff provides periodic monitoring;

(d) A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be documented in the client's record;

(e) Adequate food shall be provided to ensure that a client is able to have at least three (3) meals daily; and

(f) Snacks shall be available;

(15) A program shall be staffed twenty-four (24) hours a day, seven (7) days a week, and staff shall include:

(a) A program manager, supervisor or coordinator;

(b) Staffing capability to ensure that an appropriate staff person is responsible for managing a program in the absence of a program manager, supervisor or coordinator; and

(c) Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements;

(16) There shall be at least one (1) staff person on duty at all times, who has completed training in crisis intervention and a minimum of twelve (12) hours of training in standard first aid, which includes cardiopulmonary resuscitation, in accordance with 902 KAR 13:050, conducted by a certified instructor. [In addition to the standards in Sections 1 through 10 of this administrative regulation, the following standards shall be met for a residential transitional living program:

(1) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from a client;

(2) A client shall receive the following services:

(a) An assessment completed by program staff or obtained from a referring program which includes:

1. A psychosocial which shall include:

a. Presenting problem;

b. History of alcohol and drug use including previous treatment;

c. Current living arrangement including information regarding exposure to an individual who is engaging in the unhealthy or illegal use of alcohol or other drugs;

d. Family relationships including childhood and marital history; custody of children; sexual identity and a partner relationship if indicated;

e. Legal history;

f. Employment and military service history;

g. Education and vocational history;

h. Social and peer group relationships;

i. Religious background and practices;

j. History and treatment of mental retardation, a developmental disability and a mental health problem including emotional, physical and sexual abuse;

k. Ethnic and cultural background;

l. Leisure and recreational activities;

m. Client strengths and limitations; and

n. Diagnostic impression;

2. An evaluation of a client's current mental condition including the identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality;

3. A copy of a physical examination completed by a medical professional within ninety (90) days of admission, or completion of a physical health status questionnaire which has been developed in consultation with a physician and includes:

a. Review of body systems;

b. Surgery and treatment history;

c. Current medical condition;

d. Assessment of pregnancy status based on a client's self-report or a pregnancy test;

e. Assessment of tuberculosis, hepatitis and human immunodeficiency virus status;

f. Prescription and over-the-counter medication;

g. Allergies including an allergic reaction to a medication; and

h. Identification of a medical condition that may affect a client's participation in treatment;

4. Information from a written report regarding a previous assessment and treatment if available; and

5. A diagnostic summary including an analysis of all assessment information and a recommended course of treatment;

(b) Treatment planning which includes:

1. A written individualized treatment plan based on an assessment shall be developed for a client within seven (7) calendar days of admission and shall include:

a. Diagnosis;

b. Identification of a client's problem;

c. Goals, measurable objectives and criteria for discharge;

d. Duration, frequency and type of service to be provided including

a referral within or outside an AODE;

e. Staff person primarily responsible for implementing a treatment plan; and

f. Date for treatment plan review;

2. There shall be documentation in a client record that a treatment plan has been explained to a client and the extent to which a client agrees with the plan; and

3. A treatment plan and a client's progress shall be reviewed by a clinical staff person and a client monthly and documented in a client record;

(c) Alcohol and other drug abuse counseling shall be provided according to the following:

1. There shall be a focus on problems related to alcohol and other drug abuse;

2. There shall be individual counseling, group counseling or family counseling; and

3. A counseling service provided in a group shall have a maximum of fifteen (15) clients;

(d) Orientation to self-help groups specific to addiction recovery;

(e) Information about community recreational activities, which shall be conspicuously posted in a public area of a facility;

(f) Relapse prevention which includes:

1. A written relapse prevention plan shall be developed for a client who completes a program; and

2. A copy shall be given to a client and a summary of a relapse prevention plan shall be included in a client record as part of a progress note, discharge summary or aftercare plan; and

(g) Aftercare planning which shall include a written aftercare plan developed with a client's participation, based on a client's need at discharge, which includes activities supporting recovery from alcohol and other drug abuse, and a referral for continuing care.

(3) A progress note shall be recorded:

(a) Following the delivery of an individual counseling session and include a service provided, an observation of a client's behavior and response to the service, and a client's progress toward meeting the goals and objectives of the treatment plan; or

(b) Weekly, in a summary note, following the delivery of multiple services, with the exception of an individual counseling session, which shall be recorded in accordance with paragraph (a) of this subsection. A weekly summary note shall identify the services provided to a client during the week, a client's behavior and response to the services, and a client's progress toward meeting the goals and objectives of a treatment plan.

(4) There shall be documentation in a client record that a client is employed, pursuing employment, participating in vocational education or rehabilitation, or receiving a disability benefit.

(5) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:

(a) Date of admission and discharge;

(b) Presenting problem;

(c) Diagnosis;

(d) Summary of treatment and response to treatment; and

(e) Referral made to another organization or provider.

(6) A client shall be provided an opportunity to meet with a self-help group and other outside service providers:

(7) If a client performs work in a program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the work shall be voluntary and consistent with his treatment plan.

(8) There shall be written policies and procedures on the use of medication by a client which shall include:

(a) Prescription and over-the-counter medication brought with a client shall be recorded in a client's record upon admission;

(b) A policy on self-administration of an over-the-counter medication to include the identification of medication which shall require physician approval prior to use by a client while in the program;

(c) A program shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in paragraph (b) of this subsection is not contraindicated with a treatment plan, and the verification shall be documented in a client record;

(d) Prescription and over-the-counter medication shall be stored in a locked, secure location inaccessible to a client;

(e) Medication shall only be available to a client at the time it is

scheduled to be taken according to a prescription or as directed on a label; and

(f) Self-administration of prescription and over-the-counter medication shall be documented in a client record and include:

1. Name of the medication;
2. Date and time of self-administration;
3. Dosage and amount of medication; and
4. Name of a staff person who monitored the self-administration of a medication.

(9) Food services shall be provided according to the following:

(a) Meals shall be provided in accordance with 902 KAR 45:005;

(b) There shall be documentation that meal planning is approved by a registered dietician;

(c) A client involved in preparing meals shall be monitored by a staff person and there shall be documentation that a client receives orientation in health and safety issues related to food preparation;

(d) A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be documented in a client record;

(e) Adequate food shall be provided to ensure that a client is able to have at least three (3) meals daily; and

(f) Snacks shall be available.

(10) Staffing:

(a) A program shall be staffed twenty-four (24) hours a day, seven (7) days a week, and an AODE shall ensure that staff include:

1. A program manager, supervisor or coordinator;

2. Staffing capability to ensure that an appropriate staff person is responsible for managing a program in the absence of a program manager, supervisor or coordinator; and

3. Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered.

(b) If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements.

(11) Within three (3) months of employment, a staff person shall be trained in crisis intervention, cardiopulmonary resuscitation in accordance with 902 KAR 13:050, Section 7, and standard first aid conducted by an instructor certified by the American Red Cross.]

Section 13. Residential Transitional Living Program. In addition to the requirements established in Sections 1, 2, 3, 4, 5, 6, 7, 9 and 10 of this administrative regulation, the following requirements shall be met in a residential transitional living program.

(1) General requirements.

(a) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from the client.

(b) A physical health status questionnaire, which has been developed in consultation with a physician, or a copy of the record of a physical health examination, shall be completed for each client and include at least:

1. History of medical problems;

2. Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;

3. Use of prescription and over-the-counter medication;

4. Allergies; and

5. Identification of a medical condition that may affect a client's participation in treatment.

(c) A written aftercare plan shall:

1. Be developed for each client with the client's participation;

2. Be based on the client's needs at discharge; and

3. Include activities and referrals supporting recovery from alcohol and other drug abuse.

(d) Orientation to self-help groups specific to addiction recovery shall be provided to each client.

(e) A client shall be provided an opportunity to meet with a self-help group and other outside service providers.

(f) An AODE shall have a policy requiring that if a client performs work in the program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the

work shall be voluntary and consistent with his treatment plan.

(g) There shall be written policies and procedures on the use of medication by a client which shall include:

1. Prescription and over-the-counter medication brought with a client shall be recorded in the client's record upon admission;

2. A policy on self-administration of over-the-counter medication to include the identification of medication which requires physician approval prior to use by a client while in the program;

3. A program without a physician on staff shall obtain written consent from a client, to verify with a physician that a prescription or an over-the-counter medication described in subparagraph 2 of this paragraph is not contraindicated with the client's treatment plan and the verification shall be documented in the client's record;

4. Prescription and over-the-counter medication shall be stored in a locked and secure location inaccessible to clients;

5. Medication shall be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the label; and

6. Self-administration of prescription and over-the-counter medication shall be documented in the client's record and include:

a. Name of the medication;

b. Date and time of self-administration;

c. Dosage and amount of medication; and

d. Name of the staff person who monitored the self-administration of the medication.

(h) Food services shall be provided according to the following:

1. In accordance with 902 KAR 45:005;

2. A copy of the food service permit shall be maintained on-site; and

3. There shall be documentation that meal planning is approved by a registered dietician.

(2) Residential transitional living program where counseling services are provided on-site. In addition to the requirements established in subsection (1) of this section, the following requirements shall be met:

(a) An assessment shall be completed on each client and include:

1. A psychosocial which shall include:

a. Presenting problem;

b. History and treatment of alcohol and other drug abuse;

c. Current living arrangement;

d. Family relationships;

e. Legal, employment, military, educational, and vocational history;

f. Peer group relationships;

g. Religious background and practices;

h. History and treatment of mental retardation, a developmental disability or a mental health problem including emotional, physical and sexual abuse;

i. Ethnic and cultural background;

j. Leisure and recreational activities;

k. Client strengths and limitations; and

l. An evaluation of the client's alcohol and other drug abuse or dependency;

2. A mental status screening; and

3. A summary of a client's needs based on an analysis of all information from the client's assessment and which includes a recommended course of treatment.

(b) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation within seven (7) calendar days of admission and include:

1. An evaluation of the client's alcohol and other drug abuse or dependency;

2. The client's problem;

3. Goals, measurable objectives and criteria for discharge;

4. Duration, frequency and type of service to be provided;

5. Referrals;

6. Staff person primarily responsible for developing the

treatment plan; and

7. The client's signature.

(c) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client monthly and be documented in the client's record.

(d) Alcohol and other drug abuse counseling, including a focus on relapse prevention, shall be provided to each client. If provided in a group there shall be a maximum of fifteen (15) clients per clinician.

(e) A progress note which includes the service provided, an observation of a client's behavior and response to the service, and a client's progress toward meeting the goals and objectives of the treatment plan shall be recorded after an individual counseling session, and weekly in a summary note if a client receives multiple services.

(f) There shall be documentation in a client's record that the client is:

1. Employed;
2. Pursuing employment;
3. Participating in vocational education, training or rehabilitation; or

4. Receiving a disability benefit.

(g) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:

1. The date of admission and discharge;
2. Presenting problem;
3. An evaluation of the client's alcohol and other drug abuse or dependency;

4. Summary of the client's progress in relation to his treatment plan; and

5. Referrals made to another organization or provider.

(h) A program shall meet the staffing requirements established in Section 8 of this administrative regulation, be staffed twenty-four (24) hours a day, seven (7) days a week, and include:

1. A program manager, supervisor or coordinator;
2. Staffing capability to ensure that an appropriate staff person is responsible for managing a program in the absence of a program manager, supervisor or coordinator; and

3. Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients, the need for assistance by clients, and the type of services delivered. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements.

(i) There shall be at least one (1) staff person on duty at all times who has completed training in crisis intervention and standard first aid, which includes cardiopulmonary resuscitation conducted by a certified instructor.

(3) Residential transitional living program where counseling services are not provided on-site. In addition to the requirements established in subsection (1) of this section, the following requirements shall be met.

(a) At admission, an evaluation of the need for each of the following shall be completed for each client:

1. Alcohol and other drug abuse services;
2. Employment services;
3. Vocational education, training or rehabilitation services;
4. Disability services;
5. Other health and human services; and
6. Assistance in developing daily living skills.

(b) A written individualized treatment plan based on the evaluation of a client's needs shall be developed for each client with the client's participation within seven (7) calendar days of admission, documented in the client's record and include the following:

1. A client's problem;
2. Goals, measurable objectives and criteria for discharge;
3. Duration, frequency and type of service to be provided;
4. Referrals;
5. Staff person primarily responsible for developing the treatment plan; and
6. The client's signature.

(c) A treatment plan and a client's progress shall be re-

viewed by a caseworker and the client monthly and be documented in the client's record.

(d) Training in daily living and relapse prevention skills shall be provided to each client.

(e) A progress note shall be recorded weekly in a summary note documenting the client's progress in:

1. Employment;
2. Pursuing employment;
3. Participation in vocational education, training or rehabilitation;

4. Participation in self-help groups;

5. Training in daily living and relapse prevention skills; and

6. Following through on referrals to needed services.

(f) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:

1. Date of admission and discharge;
2. Presenting problem;
3. Summary of the client's progress in relation to his treatment plan; and

4. Referrals made to another organization or provider.

(g) A program shall meet the following staffing requirements.

1. A program manager shall be responsible for the day-to-day management of the program, supervising and documenting supervision of caseworkers and for the implementation and monitoring of program policies and procedures.

2. A program manager may be responsible for more than one (1) facility.

3. A program manager shall:

a. Meet the requirements of a clinical services supervisor in accordance with Section 8(2)(a)1 or 2 of this administrative regulation; or

b. Have a bachelors degree from an accredited college or university, plus 4000 hours of work experience in social services and eighty (80) hours of alcohol and other drug abuse training, within four (4) years immediately prior to the date of assuming responsibility as a program manager or within two (2) years immediately after assuming responsibility as a program manager.

4. A caseworker shall be responsible for:

- a. Developing a client's treatment plan;
- b. Monitoring a client's progress in relation to his treatment plan;

c. Conducting a client's training on daily living skills and relapse prevention skills; and

d. Making referrals.

5. A caseworker shall:

a. Be a certified alcohol and drug counselor certified pursuant to KRS 309.080 to 309.089;

b. Have a bachelors degree from an accredited college or university and forty (40) hours of alcohol and other drug abuse training within four (4) years immediately prior to the date of assuming responsibility as a caseworker or within one (1) year of employment in this position or within one (1) year from the effective date of this administrative regulation whichever is later; or

c. Have an associate degree from an accredited college or university, or be an individual without a degree with at least three (3) years of recovery from alcohol or other drug abuse, plus have the following:

(i) Forty (40) hours of alcohol and other drug abuse training within four (4) years immediately prior to the date of assuming responsibility as a caseworker or within one (1) year of employment in this position or within one (1) year from the effective date of this administrative regulation whichever is later;

(ii) Four (4) hours of face-to-face supervision per month; and

(iii) Treatment plans cosigned by the program manager.

6. There shall be sufficient staff to ensure that an appropriate staff person is responsible for managing a program in the absence of the program manager.

7. There shall be sufficient staff to meet client needs based on the number of clients and the need for assistance by clients. If there are multiple twenty-four (24) hour programs operated in

the same facility, the staff of all programs may be used to meet staffing requirements.

8. At least one (1) staff person on duty shall have completed training in crisis intervention and standard first aid, which includes cardiopulmonary resuscitation conducted by a certified instructor.

9. Staff training requirements shall include:

a. A program manager shall complete a minimum of twenty (20) hours of alcohol and other drug abuse related training annually; and

b. A caseworker shall complete a minimum of ten (10) hours of alcohol and other drug abuse related training annually.

Section 14. [15.] Outpatient [Treatment] Program. In addition to the requirements established [standards] in Sections 1 through 10 of this administrative regulation, the following requirements [standards] shall be met in an outpatient program.

(1) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from a client.

(2) An assessment shall be completed on each client and include:

(a) A psychosocial which shall include:

1. Presenting problem;

2. History and treatment of alcohol and other drug abuse;

3. Current living arrangement;

4. Family relationships;

5. Legal, employment, military, educational and vocational history;

6. Peer group relationships;

7. Religious background and practices;

8. History and treatment of mental retardation, a developmental disability or a mental health problem including emotional, physical and sexual abuse;

9. Ethnic and cultural background;

10. Leisure and recreational activities;

11. Client strengths and limitations; and

12. An evaluation of the client's alcohol and other drug abuse or dependency; [A psychosocial which shall include presenting problem; history and treatment of alcohol and other drug abuse; current living arrangement; family relationships; legal, employment, military, educational and vocational history; peer group relationships; religious background and practices; history and treatment of mental retardation, a developmental disability or a mental health problem including emotional, physical and sexual abuse; ethnic and cultural background; leisure and recreational activities; client strengths and limitations; and diagnostic impression;]

(b) A mental status screening; [examination which shall include a client's current mental condition including the identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality;]

(c) Completion of a physical health status questionnaire, which has been developed in consultation with a physician or a copy of the record of a physical health examination which [and] includes at least:

1. History of medical problems;

2. Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;

3. Use of prescription and over-the-counter medication;

4. Allergies; and

5. Identification of a medical condition that may affect a client's participation in treatment; and

(d) A [diagnostic] summary of a client's needs based on an analysis of all information from the client's assessment and which includes a recommended course of treatment.

(3) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation before the fourth client session and include:

(a) An evaluation of the client's alcohol and other drug abuse or dependency;

(b) The client's problem;

(c) Goals, measurable objectives and criteria for discharge;

(d) Duration, frequency and type of service to be provided;

(e) Referrals;

(f) Staff person primarily responsible for developing the treatment plan; and

(g) The client's signature. [diagnosis; a client's problem; goals; measurable objectives and criteria for discharge; duration, frequency and type of service to be provided; referrals; staff person primarily responsible for developing the treatment plan; and the client's signature.]

(4) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client every six (6) months and be documented in the client's record.

(5) Alcohol and other drug abuse counseling, including a focus on relapse prevention, shall be provided to each client. [and] If provided in a group there shall be a maximum of fifteen (15) clients per clinician.

(6) Education shall be provided to each client on the effects of alcohol and other drug abuse, the disease and recovery from alcohol [alcoholism] and other drug dependency, consistent with the client's treatment plan.

(7) A referral [Orientation] to self-help groups specific to addiction recovery shall be provided to each client.

(8) A written aftercare plan shall:

(a) Be developed for each client; [with the client's participation;

(b) [Be based on a client's needs at discharge; and

(c) [and] Include activities and referrals supporting recovery from alcohol and other drug abuse.

(9) A progress note shall be recorded following each client contact. [and] If the contact is [involved in] the delivery of a professional service, an observation of the client's behavior and response to the service and the client's progress toward meeting the goals and objectives of his treatment plan shall be recorded.

(10) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:

(a) The date of admission and discharge;

(b) [Presenting problem;

(c) An evaluation of the client's alcohol and other drug abuse or dependency;

(d) [diagnosis;] Summary of treatment and response to treatment; and

(e) [and] Referrals made to another organization or provider.

(11) A program shall have a procedure for informing clients of the availability of emergency services after a program's normal hours of operation.

(12) Staff shall include:

(a) A program manager, supervisor or coordinator; and

(b) Sufficient staff to meet client needs based on the number of clients, the need for assistance by clients, and the type of services delivered.

(13) If narcotic maintenance is provided, it shall be provided in accordance with 908 KAR 1:340. [In addition to the standards in Sections 1 through 10 of this administrative regulation, the following standards shall be met for an outpatient treatment program:

(1) At intake, client identifying and demographic information, emergency contact person and presenting problem shall be obtained from a client:

(2) A client shall receive the following services:

(a) An assessment which includes:

1. A psychosocial which shall include:

a. Presenting problem;

b. History of alcohol and drug use including previous treatment;

c. Current living arrangement including information regarding exposure to an individual who is engaging in the unhealthy or illegal use of alcohol or other drugs;

d. Family relationships including childhood and marital history, custody of children, sexual identity and a partner relationship if indicated;

e. Legal history;

f. Employment and military service history;

g. Education and vocational history;

h. Social and peer group relationships;

i. Religious background and practices;

j. History and treatment of mental retardation, a developmental disability and a mental health problem including emotional, physical

and sexual abuse;

- k. Ethnic and cultural background;
- l. Leisure and recreational activities;
- m. Client strengths and limitations; and
- n. Diagnostic impression;

2. An evaluation of a client's current mental condition including an identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality;

3. A copy of a physical examination completed by a medical professional within ninety (90) days of admission or completion of a physical health status questionnaire which has been developed in consultation with a physician and includes:

- a. Review of body systems;
- b. Surgery and treatment history;
- c. Current medical condition;
- d. Assessment of pregnancy status based on a client's self-report or a pregnancy test;
- e. Assessment of tuberculosis, hepatitis and human immunodeficiency virus status;
- f. Prescription and over-the-counter medication;
- g. Allergies including an allergic reaction to a medication; and
- h. Identification of a medical condition that may affect a client's participation in treatment;

4. Information from a written report regarding a previous assessment and treatment if available; and

5. A diagnostic summary including an analysis of all assessment information and a recommended course of treatment;

(b) Treatment planning which includes:

1. A written individualized treatment plan based on an assessment shall be developed for a client before the fourth client session and shall include:

- a. Diagnosis;
- b. Identification of a client's problem;
- c. Goals, measurable objectives and criteria for discharge;
- d. Duration, frequency and type of service to be provided including a referral within or outside an agency;
- e. Individual primarily responsible for implementing a treatment plan; and
- f. Date for treatment plan review;

2. There shall be documentation in a client record that a treatment plan has been explained to a client and the extent to which a client agrees with the plan; and

3. Case review of a treatment plan and a client's progress shall be conducted every six (6) months and documented in a client record;

(c) Alcohol and other drug abuse counseling shall be provided according to the following:

1. There shall be a focus on problems related to alcohol and other drug abuse;

2. There shall be individual counseling, group counseling or family counseling; and

3. A counseling service provided in a group shall have a maximum of fifteen (15) clients;

(d) Education on the effects of alcohol and other drug abuse, the disease and recovery from alcoholism and other drug dependency, consistent with a client's treatment plan;

(e) Orientation to self-help groups specific to addiction recovery; and

(f) Relapse prevention which includes:

1. A written relapse prevention plan shall be developed for a client who completes treatment; and

2. A copy shall be given to a client and a summary of a relapse prevention plan shall be included in a client record as part of a progress note or discharge summary;

(3) A progress note shall:

(a) Be recorded following a client contact; and

(b) If recorded following the delivery of a professional service include a service provided, an observation of a client's behavior and response to a service, and a client's progress toward meeting the goals and objectives of a treatment plan;

(4) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:

- (a) Date of admission and discharge;
- (b) Presenting problem;

(c) Diagnosis;

(d) Summary of treatment and response to treatment; and

(e) Referral made to another organization or provider.

(5) A twenty-four (24) hour crisis intervention service shall be provided either directly by an AODE or through referral to an outside provider. An AODE shall maintain a telephone answering system to ensure that referral information regarding a crisis intervention service provided by an outside provider is available to a client twenty-four (24) hours daily.

(6) Personnel requirements shall include:

(a) A program manager, supervisor or coordinator; and

(b) Sufficient personnel to meet client needs based on the number of clients, the need for assistance by clients, and the type of services delivered.

(7) When narcotic maintenance for an opiate addict is provided it shall be provided in accordance with 908 KAR 1:340.]

Section 15. [16.] Intensive Outpatient Program. In addition to the requirements established [standards] in Sections 1 through 10 and 14 [15] (1), (2), (5), (6), (7), (8), (10), (11), and (12) of this administrative regulation, the following requirements [standards] shall be met for an intensive outpatient program.

(1) A client shall receive a variety of structured comprehensive individual and group therapeutic activities for a minimum of six (6) hours over a period of two (2) or more days weekly.

(2) A written individualized treatment plan based on the assessment shall be developed for each client with the client's participation before the client's fourth session and include:

(a) An evaluation of the client's alcohol and other drug abuse or dependency;

(b) The client's problem;

(c) Goals, measurable objectives and criteria for discharge;

(d) Duration, frequency and type of service to be provided;

(e) Referrals;

(f) Staff person primarily responsible for developing the treatment plan; and

(g) The client's signature. [diagnosis; a client's problem; goals; measurable objectives and criteria for discharge; duration, frequency and type of service to be provided; referrals; staff person primarily responsible for developing the treatment plan; and the client's signature.]

(3) A treatment plan and a client's progress shall be reviewed by a clinical staff person and the client monthly and be documented in the client's record.

(4) Information or education about alcohol [alcoholism] and other drug dependency and recovery shall be made available to a client's family or significant other. [and] If a service is requested, it shall be provided either directly or through referral to a qualified outside provider.

(5) An AODE shall have a policy requiring that a schedule of all planned therapeutic activities shall be given to each client or conspicuously posted in the facility.

(6) A progress note [notes] which includes the service provided, the length of the session, an observation of the client's behavior and response to the service, and the client's progress toward meeting the goals and objectives of his treatment plan shall be recorded after an individual counseling session, and weekly in a summary note if the client receives multiple services.

(7) If a client receives services for at least five (5) consecutive hours daily, food services shall be provided either:

(a) Directly by the program according to the following:

1. [Meals shall be provided] In accordance with 902 KAR 45:005. A copy of the food service permit shall be maintained on site; and

2. There shall be documentation that meal planning is approved by a registered dietician; or [;

3. There shall be documentation that a client involved in preparing meals for other clients receives orientation in health and safety issues related to food preparation and that staff provides periodic monitoring;

4. A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be

documented in the client's record; or]

(b) By allowing the client [A client shall be allowed] adequate time to eat food obtained outside the facility. [In addition to the standards in Sections 1 through 10 of this administrative regulation, the following standards shall be met for an intensive outpatient treatment program:

(1) A structured comprehensive program of individual and group therapeutic activities shall be provided for a minimum of two (2) hours daily, at least three (3) times weekly and may be offered in phases:

(2) At intake, client identifying and demographic information; emergency contact person; and presenting problem shall be obtained from a client.

(3) A client shall receive the following services:

(a) An assessment which includes:

1. A psychosocial which shall include:

a. Presenting problem;

b. History of alcohol and drug use including previous treatment;

c. Current living arrangement including information regarding exposure to an individual who is engaging in the unhealthy or illegal use of alcohol or other drugs;

d. Family relationships including childhood and marital history; custody of children; sexual identity and a partner relationship if indicated;

e. Legal history;

f. Employment and military service history;

g. Education and vocational history;

h. Social and peer group relationships;

i. Religious background and practices;

j. History and treatment of mental retardation, a developmental disability and a mental health problem including emotional, physical and sexual abuse;

k. Ethnic and cultural background;

l. Leisure and recreational activities;

m. Client strengths and limitations; and

n. Diagnostic impression;

2. An evaluation of a client's current mental condition including an identification of an abnormality in behavior, affect, thought, memory, orientation, and contact with reality;

3. A copy of a physical examination completed by a medical professional within ninety (90) days of admission or completion of a physical health status questionnaire which has been developed in consultation with a physician and includes:

a. Review of body systems;

b. Surgery and treatment history;

c. Current medical condition;

d. Assessment of pregnancy status based on a client's self-report or a pregnancy test;

e. Assessment of tuberculosis, hepatitis and human immunodeficiency virus status;

f. Prescription and over-the-counter medication;

g. Allergies including an allergic reaction to medication; and

h. Identification of a medical condition that may affect a client's participation in treatment;

4. Information from a written report regarding a previous assessment and treatment if available; and

5. A diagnostic summary including an analysis of all assessment information and a recommended course of treatment;

(b) Treatment planning which includes:

1. A written individualized treatment plan based on an assessment shall be developed for a client before the fourth client session and shall include:

a. Diagnosis;

b. Identification of a client's problem;

c. Goals, measurable objectives and criteria for discharge;

d. Duration, frequency and type of service to be provided including a referral within or outside an AODE;

e. Individual primarily responsible for implementing a treatment plan; and

f. Date for treatment plan review;

2. There shall be documentation in a client record that a treatment plan has been explained to a client and the extent to which a client agrees with the plan; and

3. Case review of a treatment plan and a client's progress shall be

conducted monthly and documented in a client record;

(c) Alcohol and other drug abuse counseling shall be provided according to the following;

1. There shall be a focus on problems related to alcohol and other drug abuse;

2. There shall be individual counseling, group counseling or family counseling; and

3. A counseling service delivered in a group shall have a maximum of fifteen (15) clients;

(d) Education on the effects of alcohol and other drug abuse, the disease and recovery from alcoholism and other drug dependency, consistent with a client's treatment plan;

(e) Orientation to self-help groups specific to addiction recovery;

(f) Relapse prevention which includes:

1. A written relapse prevention plan shall be developed for a client who completes treatment; and

2. A copy shall be given to a client and a summary of a relapse prevention plan shall be included in a client record as part of a progress note, discharge summary or aftercare plan; and

(g) Aftercare planning which shall include a written aftercare plan developed with a client's participation, based on a client's need at discharge, which includes activities supporting recovery from alcohol and other drug abuse, and a referral for continuing care.

(4) Information or education about alcoholism and other drug dependency and recovery shall be made available to a client's family or significant other, and if a service is requested it shall be provided either directly by an AODE or through referral to a qualified outside provider.

(5) There shall be a time schedule of all planned therapeutic activities and the schedule shall be given to a client or conspicuously posted.

(6) A progress note shall be recorded:

(a) Following the delivery of a professional service and include a service provided, an observation of a client's behavior and response to the service, and a client's progress toward meeting the goals and objectives of the treatment plan; or

(b) Weekly, in a summary note, following the delivery of multiple services, with the exception of an individual counseling session, which shall be recorded in accordance with paragraph (a) of this subsection. A weekly summary note shall identify the services provided to a client during the week, a client's behavior and response to the services, and a client's progress toward meeting the goals and objectives of a treatment plan.

(7) A discharge summary shall be completed within thirty (30) calendar days of discharge and include:

(a) Date of admission and discharge;

(b) Presenting problem;

(c) Diagnosis;

(d) Summary of treatment and response to treatment; and

(e) Referral made to another organization or provider.

(8) A twenty-four (24) hour crisis intervention service shall be provided either directly by an AODE or through referral to an outside provider. An AODE shall maintain a telephone answering system to ensure that referral information regarding a crisis intervention service provided by an outside provider is available to a client twenty-four (24) hours daily.

(9) When a client receives services for at least five (5) consecutive hours daily, food services shall be provided either:

(a) Directly by the program according to the following:

1. Meals shall be provided in accordance with 902 KAR 45:005;

2. There shall be documentation that meal planning is approved by a registered dietician;

3. A client involved in preparing meals shall be monitored by personnel and there shall be documentation that a client receives orientation in health and safety issues related to food preparation; and

4. A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be documented in a client record; or

(b) A client shall be allowed adequate time to eat food obtained outside the facility.

(10) Personnel requirements shall include:

(a) A program manager, supervisor or coordinator; and

(b) Sufficient personnel to meet client needs based on the number

of clients, the need for assistance by clients, and the type of services delivered.}]

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Application for Licensure to Operate an Alcohol or Drug Treatment Entity (AODE), 11-99; and

(b) Form L&R 18, Statement of Deficiencies and Plan of Correction, 11-99.

(2) This material may be inspected, copied, or obtained at the Office of Inspector General, Division of Licensing and Regulation, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

[Section 17. Halfway House Program. In addition to the standards in Sections 1 through 10 of this administrative regulation, the following standards shall be met in a halfway house program if staff do not provide counseling on site:

(1) At intake, client identifying and demographic information, emergency contact person, and presenting problem shall be obtained from a client;

(2) Completion of a physical health status questionnaire, which has been developed in consultation with a physician, and includes at least:

- (a) History of medical problems;
- (b) Client's self-report on current status of pregnancy, tuberculosis, hepatitis and human immunodeficiency virus;
- (c) Use of prescription and over-the-counter medication;
- (d) Allergies; and
- (e) Identification of a medical condition that may affect a client's participation in the program;

(3) A written individualized referral plan based on the client's needs shall be developed for each client, with the client's participation, within seven (7) calendar days of admission and be documented in the client's record;

(4) A referral plan shall identify both a client's need for employment services; vocational education, training or rehabilitation services; disability services; other health and human services; and the referrals needed to obtain these services;

(5) A referral plan and the client's progress shall be reviewed monthly by the program manager and the client and documented in the client's record;

(6) If a client is in need of counseling services the counseling shall be provided by referral to an appropriately licensed, certified or accredited provider;

(7) Orientation to self-help groups shall be provided to each client;

(8) A written aftercare plan shall be developed for each client with the client's participation, be based on the client's needs at discharge, and include activities and referrals supporting recovery from alcohol and other drug abuse;

(9) A progress note shall be recorded weekly in a summary note documenting the client's progress in employment, pursuing employment, participation in vocational education, training or rehabilitation; and following through on referrals to needed services;

(10) A discharge summary shall be completed within thirty (30) calendar days of discharge and include date of admission and discharge, summary of the client's progress in relation to his referral plan, and referrals;

(11) A client shall be provided an opportunity to meet with a self-help group and other outside service providers;

(12) If a client performs work in the program, other than a personal care or housekeeping task, which is part of a therapeutic activity, the work shall be voluntary and consistent with his recovery;

(13) There shall be written policies and procedures on the use of medication by a client which shall include:

(a) Prescription and over-the-counter medication brought with a client shall be recorded in a client's record upon admission;

(b) A policy on self-administration of over-the-counter medication to include the identification of medication which requires physician approval prior to use by a client while in the program;

(c) A program shall obtain written consent from a client, to verify

with a physician that a prescription or an over-the-counter medication described in paragraph (b) of this subsection is not contraindicated with the client's recovery, and the verification shall be documented in the client's record;

(d) Prescription and over-the-counter medication shall be stored in a locked and secure location inaccessible to clients;

(e) Medication shall be available to a client only at the time it is scheduled to be taken according to a prescription or as directed on the label; and

(f) Self-administration of prescription and over-the-counter medication shall be documented in the client's record and include name of the medication, date and time of self-administration, dosage and amount of medication, and name of the staff person who monitored the self-administration of the medication;

(14) Food services shall be provided according to the following:

(a) Meals shall be provided in accordance with 902 KAR 45:005;

(b) There shall be documentation that meal planning is approved by a registered dietician;

(c) There shall be documentation that a client involved in preparing meals for other clients receives orientation in health and safety issues related to food preparation and that staff provides periodic monitoring;

(d) A client with a special dietary requirement shall be provided food to meet his needs and the special dietary requirement shall be documented in the client's record;

(e) Adequate food shall be provided to ensure that a client is able to have at least three (3) meals daily; and

(f) Snacks shall be available;

(15) A program shall include at least the following staff:

(a) A program manager, who shall be responsible for the day-to-day management of the program, and for implementation of program policies and procedures, including planning, coordination, and supervision of the clients;

(b) Staffing capability to ensure that an appropriate staff person is responsible for managing a program in the absence of the program manager, supervisor or coordinator; and

(c) Sufficient staff to meet client needs twenty-four (24) hours a day based on the number of clients and the need for assistance by clients. If there are multiple twenty-four (24) hour programs operated in the same facility, the staff of all programs may be used to meet staffing requirements;

(16) There shall be at least one (1) staff person on duty at all times, who has completed training in crisis intervention and a minimum of twelve (12) hours of training in standard first aid, which includes cardiopulmonary resuscitation in accordance with 902 KAR 13:050, conducted by a certified instructor.}]

ELIZABETH REHM WACHTEL, Ph.D., Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 2, 1998

FILED WITH LRC: July 2, 1998 at 11 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, March 6, 2000)

922 KAR 1:100. Agency adoptions.

RELATES TO: KRS 199.470-199.590, 209.020, 508.100, 508.110, 508.120, 510.040-510.140, 510.150, 529.020-529.050, 530.020, 530.064, 531.300-531.370, 600.020(1)

STATUTORY AUTHORITY: KRS 194B.050(1), 199.472

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) provides that the Secretary of the Cabinet for Families and Children shall establish policies and operate programs to protect, develop and maintain the welfare of the citizens of the Commonwealth. KRS 199.472 provides that the cabinet shall establish criteria for the adoption of children. This administrative regulation establishes the procedures for agency adoptions. [by administrative regulation, develop policies and operate

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programs concerned with the welfare of the citizens of the Commonwealth. This administrative regulation describes the process of agency adoptions.]

Section 1. Definitions. (1) "Adoptive home study" means a study conducted by a social worker to document the preparation and training received by an approved adoptive family. [The study shall include:

- (a) Documentation that no physical, mental or emotional barrier to the parent's ability to adopt exists;
- (b) A written report on any physical or mental illness and documentation of subsequent counseling or treatment including diagnosis, prognosis and the therapist's recommendation regarding appropriateness for adoptive placement;
- (c) Verification of marriage;
- (d) When applicable, divorce or death verification of a previous spouse;
- (e) A criminal records check;
- (f) A child and spouse abuse check and copy of any investigation previously completed by any agency;
- (g) Personal and financial reference; and
- (h) A statement documenting the family's current status with any previous adoption or foster care agency.]

(2) "Administrative review" means an independent study or assessment by cabinet staff in which a recommendation may be made regarding the status of a case at least every six (6) months.

(3) "Cabinet" means Cabinet for Families and Children.

(4) "Concurrent planning" means the cabinet may simultaneously plan for reunification of a child with the birth family and permanent removal of the child if the prognosis for reunification is poor.

(5) "Concurrent planning family" means a foster family specifically trained and approved by the cabinet to provide concurrent planning placement services.

(6) "Interstate Compact on the Placement of Children (ICPC)" means the legal framework pursuant to KRS 615.030 for the placement of a child out of state.

(7) "Preplacement conference" means a meeting conducted by cabinet staff to:

(a) Provide an approved adoptive family with information regarding a child that has been referred to the family for adoptive placement;

(b) Assist the family in reaching a decision regarding acceptance of placement; and

(c) Determine the method of presenting the family to the child.

(8) "Special Needs Adoption Program (SNAP)" means recruitment of an adoptive family by cabinet staff for a child for whom an adoptive placement has not been identified within one (1) month following termination of parental rights.

(9) "Statement of After-placement Services" means an agreement for after-placement supervision for a child placed with an out-of-state family whose agency is a licensed private adoption agency.

Section 2. Preparation of the Child for Adoptive Placement. (1) A child prepared for adoptive placement by cabinet staff shall receive clarification regarding the:

- (a) Relationship to birth parent;
- (b) Entitlement to a parent;
- (c) Foster parent relationship;
- (d) Reason for which the foster placement may not become the adoptive placement;
- (e) Role of the family service worker and the child in placement planning;
- (f) Meaning of adoption;
- (g) Process of recruitment of a family and how the child may be involved;
- (h) Impending placement;
- (i) Visitation process;
- (j) Placement decision; and
- (k) Cabinet staff responsible for the placement decision.

(2) If a child's adoption plan includes reunification with a sibling separated in foster care, planning for the reunion and coordination of increased visitation between siblings shall occur before termination of parental rights.

(3) If cabinet staff agree by consensus during a planning conference, a sibling may be separated from another sibling in adoption upon consideration of:

(a) If age appropriate, each sibling's understanding of the facts of the relationship, his feelings, wishes, and ideas regarding options for placement;

(b) The foster parent's or child placement professional's perceptions of each child's relationship with his sibling; and

(c) The recommendation of therapists and psychologists working with each child.

(4) A mental health counselor, birth relative, family service worker, nonadopting foster parent, or other appropriate person may assist with preparing the child for adoption.

(5) A foster child may be placed in a home approved for adoption prior to termination of parental rights when the child's goal has been changed to adoption.

(6) If an approved family has not been identified within one (1) month after the child is freed for adoption, cabinet staff shall register a waiting child with SNAP for recruitment of an adoptive family.

Section 3. Selection of the Adoptive Family. (1) Emphasis for adoptive placement in the best interest of the child shall be to expedite the adoptive placement.

(2) Priority consideration for an adoptive placement shall be given to the:

(a) Existing relative; or

(b) Current foster parent.

(3) A final decision to pursue relative or foster adoption shall be made no later than five (5) days from the:

(a) Entry of the final order for termination of parental rights; or

(b) Termination of parental rights hearing.

(4) If the existing relative or foster parent shall not be pursued as an adoptive placement, the cabinet shall pursue adoptive placement according to the needs of the child with:

(a) A concurrent planning family; or

(b) An approved adoptive family.

(5) Acceptance by an approved family of a referral for adoptive placement shall result in a preplacement conference.

Section 4. Preparation of the Potential Adoptive Resource. (1) The prospective adoptive family shall have completed preparation for placement of a child for whom the cabinet has received wardship pursuant to 922 KAR 1:350 and be approved as a family resource home.

(2) Cabinet staff shall schedule a preplacement conference for a child freed for adoption with the child's:

(a) Foster parent;

(b) Prospective adoptive parent;

(c) If applicable, therapist; and

(d) If applicable, social worker from the licensed private child care or child-placing agency where the child is placed.

(3) During the preplacement conference, cabinet staff shall discuss with the prospective adoptive parent acceptance of the:

(a) Referral;

(b) Health, background, and placement history of the child; and

(c) Plan for visitation and placement.

Section 5. Adoptive Placement. (1) Planned visitation between a child older than one (1) month and a prospective adoptive family shall occur at least two (2) times prior to placement.

(2) Final placement with an adoptive family shall occur as quickly as possible upon the:

(a) Concurrence among cabinet staff, family and the child that the family and child are ready; and

(b) Completion of the Adoptive Placement Agreement.

(3) If a foster home or concurrent planning family placement becomes an adoptive family placement, a foster care payment shall cease upon completion of the Adoptive Placement Agreement.

(4) Adoption assistance shall be explored pursuant to 922 KAR 1:050.

Section 6. Out-of-State Adoptive Placement. (1) If an approved family is not identified within six (6) months after the child is freed for

adoption, SNAP personnel shall:

(a) Refer the child to a national adoption exchange in search of a family; or

(b) Consider placement through an out-of-state agency.

(2) Placement of a Kentucky child with an out-of-state adoptive family may occur if:

(a) The family is seeking a child:

1. Through their state's public child welfare agency; or
2. With a licensed child placing adoption agency;

(b) An adoptive home study pursuant to subsection (6) of this section has been completed or updated by the family's present adoption agency, current within one (1) year by the date of the completion of the interstate referral package;

(c) A birth or adoptive child living in the prospective adoptive family's home has been in the home for one (1) year by the time of placement;

(d) Another child placed in the home for the purpose of adoption:

1. Has had his adoption finalized prior to the referral of the Kentucky child; or
2. Is a sibling of the child being referred;

(e) An agreement with the cabinet has been signed by the adoptive family stating that no additional child, except for a sibling of a previously placed child, shall be accepted by the family for adoption until the Kentucky child has been in placement with the family for one (1) year and the adoption has been finalized; and

(f) The family's agency is a licensed private adoption agency and the family's agency has signed the Statement of After-Placement Services.

(3) A prospective out-of-state adoptive family who cannot pay the expense to attend a preplacement conference or visit a Kentucky child may have travel expenses paid by the cabinet.

(4) If the deputy compact administrator in both states provides written approval of the visit and both states sign the Interstate Compact Placement Request, a Kentucky child may travel to visit an out-of-state prospective adoptive family.

(5) Cabinet staff or another adult whom the child knows shall accompany a Kentucky child on an out-of-state visit to a prospective adoptive family upon approval from the secretary for the cabinet.

(6) The adoptive home study shall include:

(a) Documentation that no physical, mental or emotional barrier to the parent's ability to adopt exists;

(b) A written report on any physical or mental illness and documentation of subsequent counseling or treatment including diagnosis, prognosis and the therapist's recommendation regarding appropriateness for adoptive placement;

(c) If applicable, verification of marriage;

(d) If applicable, divorce or death verification of a previous spouse;

(e) A criminal records check;

(f) A child and spouse abuse check and copy of any investigation previously completed by any agency;

(g) Personal and financial reference; and

(h) A statement documenting the family's current status with any previous adoption or foster care agency.

Section 7. Postplacement Service. (1) The goal of a postplacement service shall be to:

- (a) Ensure the success of the placement; and
- (b) Prevent disruption.

(2) The cabinet shall provide regular support and counseling service to the child and the adoptive family during the period prior to the legal adoption through finalization.

(3) Until the adoption judgement has been granted by the circuit court, administrative review for a child placed in an adoptive home shall continue.

Section 8. Alternative Placement When Disruption Occurs. (1) An alternative placement shall be planned following disruption of an adoptive placement.

(2) The child may be placed temporarily with a family that has already adopted a special needs child.

Section 9. Reconsideration of a Closed Adoptive Home. The

family may reapply and receive approval for adoptive placement:

- (1) If previously closed in good standing; or
- (2) Following finalization of an adoption.

Section 10. Closure of Approved Adoptive Homes. (1) If an approved family does not receive a placement within three (3) years, the family shall be closed on the third anniversary of the approval date unless an indefinite extension is granted for a family waiting for a nonspecial needs child.

(2) Closure of an approved adoptive home shall occur if:

(a) An approved adoptive parent is criminally convicted or pleads guilty to charges of a sexual offense designated in KRS 510.040 to 510.140, 510.150, 529.020 to 529.050, 530.020, 530.064, or 531.300 to 531.370;

(b) An approved adoptive parent commits:

1. A crime of abuse, neglect or exploitation of a child pursuant to KRS 508.100, 508.110, or 508.120; or

2. Abuse, neglect or exploitation of a child, pursuant to KRS 600.020(1), substantiated by the cabinet pursuant to 922 KAR 1:330 and, if appealed, 922_KAR 1:320;

(c) Physical abuse of a spouse pursuant to KRS 209.020 by the approved adoptive parent is substantiated by the cabinet pursuant to 922 KAR 5:070;

(d) Serious physical or mental illness develops to the extent that care of the child by an approved adoptive parent is impaired; or

(e) The adoptive parent is convicted of a Class A or Class B felony offense pursuant to KRS Chapter 510; and

(3) If closure is necessary for an adoptive family who has a child placed, but the adoption is not finalized, the child shall be removed from the home.

(4) If the deficiency that led to closure has been resolved, an adoptive family previously closed due to a deficiency may reapply for approval as an adoptive family.

(5) Except for the referral of a sibling of a child previously placed with the adoptive family, the status of a nonfoster adoptive family placed on the register of waiting families shall change to inactive and subsequent referrals for adoptive placement shall not be made until finalization has occurred.

Section 11. Confidentiality of Records. Pursuant to KRS 199.570, no person having charge of an adoption record shall give to an individual:

(1) The name of a party appearing in the record; or

(2) A copy of the record except upon order of the court that granted the adoption.

Section 12. Request for Information from Adoption Records. (1) Identifying information from the cabinet's record may be released only upon written order by the court upon application to the circuit court that granted the adoption by an adoptee, twenty-one (21) years of age or older.

(2) If the birth parent has not previously filed consent for release of identifying information with the circuit court, the judge may:

(a) Issue a court order requiring the cabinet to conduct a search for each birth parent as identified on the original birth certificate; and

(b) Determine the parent's desire concerning the release of identifying information from the record.

(3) Upon receipt of written request by the adult adoptee or the adoptive family, nonidentifying health and background information may be released by the cabinet from a closed adoption record.

(4) If a request is received from an adoptee, eighteen (18) years of age or older, for contact with an adult preadoptive birth sibling separated during finalization of a closed adoption, cabinet staff shall:

(a) Review the adoption record; and

(b) Release identifying information if a mutual request for contact is contained within the record.

(5) If a request is received from a birth relative seeking an adoptee, either adult or minor, information may be given that adoption did occur and reassurance of the well being of the adoptee at last contact may be confirmed, but cabinet staff shall not contact an adoptee or adoptive family at the request of the birth family.

(6) If an adult adoptee seeks contact with the birth family, cabinet staff shall inform the adult adoptee of a birth relative's interest.

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DIETRA PARIS, Commissioner

CHARLES P. LAWRENCE, Attorney

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: January 12, 2000

FILED WITH LRC: January 14, 2000 at 11 a.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Racing Commission
(Amended After Hearing)

810 KAR 1:060. Chemical dependency.

RELATES TO: KRS 230.215, 230.260(1), 230.290(2)(3), 230.310

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3), 230.290(2), 230.310

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is to prohibit licensees of the Kentucky Racing Commission from abusing alcohol or engaging in illegal drug use or activity while performing their duties, to provide for drug and alcohol testing and to establish consequences for violations of this administrative regulation.

Section 1. Definitions. (1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) "Association" is defined by KRS 230.210(1).

(3) "Commission" is defined by KRS 230.210(2).

(4) "Crimes involving drugs and drug paraphernalia" means all activities made illegal under KRS Chapter 218A, other statutes or administrative regulations of this Commonwealth, and similar laws and regulations of other states and the United States, which include the use, possession, or trafficking in marijuana, cocaine, or any other controlled substances; possession or distribution of drug paraphernalia, or obtaining or using prescription drugs without a valid prescription.

(5) "Documentation" means proof of regular attendance at meetings, counseling sessions, clean drug test results (if suspended for a drug violation), and certification from the treatment program indicating full compliance with treatment and completion of the program. Particular documentation requirements may be imposed in conjunction with suspension, which may be in addition to, or in lieu of, the documentation otherwise set out in this administrative regulation.

(6) "Drug paraphernalia" means all equipment, products and material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug in violation of any law or administrative regulation of this Commonwealth, any state, or the United States.

(7) "Licensee" means a person that has been duly issued a current and valid license to participate in horse racing in this Commonwealth. This term shall not include a person who holds a currently valid license but is not actively involved with the day to day activities associated with the training and handling of a horse, or is attending or participating in the sales of horses conducted on the premises of associations.

(8) "Under the influence of intoxicants" means a person's mental or physical abilities are impaired by the presence of alcohol or other drugs in his body to such a degree that the person is not able to safely and properly perform his job functions.

Section 2. Prohibited Activities. Licensees shall not:

(1) Be under the influence of intoxicants while on association grounds;

(2) Commit any crime involving drugs or drug paraphernalia;

(3) Fail to comply with substance abuse treatment imposed pursuant to an evaluation conducted under this administrative regulation;

(4) Tamper with a drug or alcohol test or;

(5) Refuse to submit to drug or alcohol testing upon request of the commission, a steward or other authorized employee of the

commission.

Section 3. Evidence of Violation. The following shall be presumptive evidence of a violation of this administrative regulation:

(1) A breath or blood test result revealing an alcohol concentration of 0.05 percent or more while on association grounds;

(2) A positive result from a drug test for marijuana, cocaine, or other controlled substance for which the licensee does not have a current and valid prescription;

(3) A conviction in any court of law for a drug related offense.

Section 4. Discipline. (1) First offense. For a first time violation of this administrative regulation, the offender's license shall be suspended. The offender shall be required to undergo an evaluation by a professional in the field of addictive or substance abuse disorders approved by the commission. If the evaluator determines the existence of a substance abuse problem, the offender shall be required to comply with the recommended course of treatment. Upon the expiration of seven (7) calendar days, the offender may be eligible for reinstatement before the commission stewards. For a first time violation of these rules for an alcohol infraction, the stewards shall have the discretion to impose a lesser penalty and may excuse the offense for counting purposes under this administrative regulation.

(2) Second offense. For a second violation of this administrative regulation within a three (3) year period, the offender's license shall be suspended. The offender shall be required to enroll in and complete a substance abuse program approved by the commission. Upon the expiration of sixty (60) calendar days, the offender may be eligible for reinstatement before the commission stewards.

(3) Third offense. A third violation of this administrative regulation within a three (3) year period shall result in the revocation of the offender's license.

(4) Zero tolerance offense. Conviction in any court of law of a drug trafficking offense shall result in revocation of the offender's license even if it is a first offense under this administrative regulation.

(5) Preexisting offenses. Instances of alcohol intoxication on association grounds or illegal drug use or activity by a licensee which the commission has reason to believe occurred before the adoption of these administrative regulations, may be counted when determining whether a new violation is a second or final violation.

(6) Fines. Any offender under this administrative regulation may also be fined not less than fifty (50) dollars nor more than \$1,000, at the discretion of the commission or stewards, in addition to any suspension imposed.

(7) In determining the three (3) year period under this administrative regulation, the period shall be measured from the date on which the violation occurred. If the violation is failure to complete recommended treatment, the violation date shall be calculated from the date of the first missed meeting, or session.

Section 5. Reinstatement after Suspension. (1) After first offense. To be reinstated the offender shall submit:

(a) Documentation of the completed evaluation;

(b) the recommendation of the evaluator in writing; and

(c) If treatment is recommended, compliance with the imposed course of treatment.

(2) After second offense. To be reinstated the offender shall submit documentation of compliance with the imposed course of treatment.

(3) Continuing compliance with treatment. When an offender is reinstated before the completion of the imposed course of treatment, continuing compliance with treatment shall be required. Documentation of continued compliance and final completion of treatment shall be provided upon request to the stewards or other employee authorized by the commission. Failure to comply with and complete the imposed course of treatment after reinstatement may be deemed an additional violation.

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(4) Additional requirements. The commission may impose any additional requirements for reinstatement it deems appropriate.

Section 6. Drug and Alcohol Testing. **In deciding when drug tests should be administered the stewards may require:**

(1) All licensees be tested on a particular day;

(2) Licensees on a particular day be tested totally at random; or

(3) Those licensees that the stewards have a reasonable suspicion may be under the influence of intoxicants submit to drug and alcohol testing. [The commission shall direct the regular testing of its licensees for drugs or alcohol. The testing shall be implemented under the direction of the stewards or other authorized employee of the commission. Testing methods and procedures shall conform with recognized and accepted practices in the medical and legal community.]

Section 7. Payment for Expenses Related to this Administrative Regulation. Licensees shall be responsible for all or part of the expenses associated with violating this administrative regulation, including the cost of treatment and reinstatement of the license. The responsibility for payment of expenses shall be as follows:

(1) For a first offense, the offender's responsibility for costs shall be at the discretion of the stewards or other authorized commission employee and shall be based on the offender's ability to pay.

(2) For a second offense as defined by this administrative regulation, the offender shall bear all costs.

(3) For a drug or alcohol test initiated by the commission to determine if a violation has occurred, the commission shall bear the cost unless the test reveals a violation. If the test reveals a violation, subsections (1) and (2) of this section apply.

(4) Failure to pay any costs imposed may be grounds for denial of reinstatement.

Section 8. Administration of Administrative Regulation. The commission shall employ a competent individual to oversee and assist in the administration of this administrative regulation. The stewards of the commission shall enforce this administrative regulation under the direction of the commission and its authorized employee.

C. FRANK SHOOP, Chairman

DICK CARROLL, Office of the Attorney General

APPROVED BY AGENCY: March 10, 2000

FILED WITH LRC: March 10, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Rena Elswick

(1) Type and number of entities affected: All individuals licensed by the Kentucky Racing Commission will be affected. Approximately 18,000 are licensed for the thoroughbred tracks each year.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. Licensees shall be responsible for all or part of the expenses associated with violating this administrative regulation. This includes any drug or alcohol testing deemed necessary by the stewards.

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

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

(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: None

(10) Any additional information or comments: None

(11) Tiering: Is tiering applied? Tiering was not used. The licensees affected will pay for the drug and alcohol testing, not the commission.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MARCH 15, 2000

KENTUCKY BOARD OF EMBALMERS
AND FUNERAL DIRECTORS
(Amendment)

201 KAR 15:030. Fees.

RELATES TO: KRS 316.125(2)(a), 316.130(2), (4), (5), 316.140(2)

STATUTORY AUTHORITY: KRS 316.125(2)(a), 316.130(2), (4), (5), 316.140(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 316.125(2)(a), 316.130(2), (4), and (5), and 316.140(2) require the board to set out in administrative regulations certain fees. This administrative regulation establishes these fees.

Section 1. The funeral establishment license fee shall be \$125 [400].

Section 2. The embalmer's license renewal fee shall be fifty (50) [thirty (30)] dollars.

Section 3. The funeral director's license renewal fee shall be fifty (50) [thirty (30)] dollars.

Section 4. The late fee for a funeral establishment license renewal shall be \$100.

Section 5. The late fee for an embalmer's license renewal or a funeral director's license renewal shall be thirty (30) dollars.

Section 6. The fee for an annual courtesy card shall be seventy-five (75) dollars.

ALLAN HARL, JR., Chairman

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: March 7, 2000

FILED WITH LRC: March 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 24th day of April, 2000, at 1 p.m. in the Capitol Building, 700 Capitol Avenue, Room 114, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by the 17th day of April, 2000, 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: Emma Lou Hartledge, Executive Director, 7025 W. Highway 22, Suite 7, Crestwood, Kentucky 40014, Phone (502) 241-3918, FAX (502) 241-4297.

REGULATORY IMPACT ANALYSIS

Agency Contact: James J. Grawe

(1) Type and number of entities affected: There are five hundred and ten funeral establishments in the Commonwealth. Approximately 530 persons that hold only the funeral directors licenses. Approximately 1,980 persons that hold both the funeral director's license and the embalmer's license.

(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: Minimal direct costs for licensees 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: Licensing fees are considered state revenue.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Agency funds and annual budget.

(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: The agency has no alternative methods for raising agency funds for continued operation of the board. The statutes prescribe that fees are the sole source of operating funds available to the board.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Will allow the board to protect the public by its administration and enforcement of the laws governing funeral directing and embalming 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: The board's ability to protect the public by administration and enforcement of the laws governing funeral directing and embalming services could be diminished by the rising costs of operation.

(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 licensees are treated uniformly under the law.

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035,

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197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections [commissioner] to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet 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. This administrative regulation establishes the policies and procedures for the Kentucky State Reformatory.

Section 1. Incorporation by Reference. (1)(a) Kentucky State Reformatory policies and procedures March 14, 2000 [~~December 14, 1999~~], are incorporated by reference.

(b) It may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m. [There will be no public hearing on these policies and procedures as they are secured policies under the provisions of KRS 197.025 which states that such policies shall not be accessible to the public or inmates.]

(2) Kentucky State Reformatory policies and procedures include:

KSR 01-00-09	Public Information and News Media Relations	KSR 10-01-02	Segregation - General Operational Procedures
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution	KSR 10-01-03	Segregation - Inmate Tracking System and Records System
KSR 01-00-15	Cooperation and Coordination with Oldham County Courts	KSR 10-01-04	Segregation - Administrative Segregation
KSR 01-00-19	Personal Service Contract Personnel	KSR 10-01-05	Segregation - Disciplinary Segregation
KSR 02-00-01	Inmate Canteen	KSR 10-01-06	Segregation - Protective Custody
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts	[KSR 10-01-07	Segregation - Convalescent Care Unit (Deleted 3/14/2000)]
KSR 02-00-11	Inmate Personal Accounts	KSR 10-01-08	Unit D - Safekeepers and Pretrial Contract Hold Status Inmates
KSR 02-00-12	Institutional Funds and Issuance of Checks	KSR 10-01-09	Unit D - Hold Ticket Residents
KSR 04-00-02	Staff Training and Development <u>(Amended 3/14/2000)</u>	KSR 10-01-11	Segregation Unit - Behavior Problem Control
KSR 05-00-01	Officers' Daily Housing Security and Safety Log	KSR 10-01-13	Segregation Unit - Property Room Access
KSR 05-00-02	Research Activities	KSR 10-02-01	Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training, Time and Attendance
KSR 05-00-03	Management Information Systems <u>(Amended 3/14/2000)</u>	KSR 10-02-02	Unit E Designated Staff Visits
KSR 06-00-01	Inmate Master File	[KSR 10-02-03	Unit E-1 Convalescent Care (Deleted 3/14/2000)]
KSR 06-00-03	Kentucky Open Records Law and Release of Psychological/ Psychiatric Information	KRS 10-02-04	Department of Corrections Division of Mental Health's Intensive Services Transitional Program: General Operating Procedures
KSR 07-00-02	Institutional Tower Room Regulations	KSR 10-02-07	Correctional Psychiatric Treatment Unit: Inmate Tracking System and Record System
[KSR 07-00-04	Handling of PCB Articles and Containers (Deleted 3/14/2000)	KSR 10-02-08	Correctional Psychiatric Treatment Unit <u>[(Added 12/14/99)]</u>
KSR 07-00-05	Proper Removal of Transformers (Deleted 3-14-2000)]	KSR 11-00-01	Meal Planning and Procedure
KSR 07-00-06	Asbestos Abatement	KSR 11-00-02	Special Diets
KSR 07-00-07	Discharge Monitoring Report (DMR)	KSR 11-00-03	Food Service Inspections
KSR 07-00-08	Control of Hazardous Energy (Lockout or Tagout)	KSR 11-00-04	Dining Room Rules and Dress Code for Inmates
KSR 07-00-09	Inventory Control of Underground Storage Tanks	KSR 11-00-06	Health Standards and Regulations for Food Service Employees
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family	KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates
KSR 08-00-08	Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery or Death	KSR 12-00-01	Inmate Summer Dress Regulations
KSR 08-00-10	Hazardous Materials and Chemicals Safety Data Sheet <u>[(Amended 12/14/99)]</u>	KSR 12-00-03	State Items Issued to Inmates
KSR 09-00-21	Crime Scene Camera	KSR 12-00-05	Sanitation Policy and Standards
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence	KSR 12-00-07	Regulations for Inmate Barbershop
KSR 09-00-23	Drug Abuse Testing	KSR 12-00-09	Treatment of Inmates with Body Lice
KSR 09-00-26	Contraband Outside Institutional Perimeter	[KSR 13-00-02	Hospital Operations, Rules and Regulations (Deleted 3-14-2000)]
KSR 09-00-28	Restricted Areas	KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 09-00-29	Transportation of Inmates	KSR 13-00-04	Medical and Dental Care
KSR 09-00-30	Parole Board	KSR 13-00-05	Medical Records
KSR 09-00-31	Forced Cell Move in Medium or Maximum Area	KSR 13-00-08	Institutional Laboratory Procedures
KSR 10-00-10	Segregation - Special Management Inmate Legal Access	KSR 13-00-09	Institutional Pharmacy Procedures
KSR 10-00-11	Unit D - Behavior Problem Control	KSR 13-00-10	Requirements for Medical Personnel
KSR 10-01-13	Unit D - Property Room Access	KSR 13-00-11	Health Evaluation
KSR 10-01-01	Segregation Unit - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation	KSR 13-00-12	Vision Care/Optomety Services
		KSR 13-00-14	Periodic Health Examinations for Inmates
		KSR 13-00-15	Medical Alert System
		KSR 13-00-16	Suicide Prevention and Intervention Program
		KSR 13-00-17	Special Care
		KSR 13-02-01	Mental Health Services
		KSR 13-02-02	Mentally Retarded Inmates
		KSR 13-02-03	Suicide Prevention and Intervention Program
		KSR 13-02-04	Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Program Description
		KSR 13-02-05	Access to Intensive Services Programs Operated at Kentucky State Reformatory by the Division of Mental Health
		KSR 14-00-01	Inmate Rights
		KSR 14-00-02	Americans with Disabilities Act Inmate Program Access
		[KSR 14-00-04	Inmate Grievance Procedure (Deleted 3/14/2000)]
		KSR 15-00-02	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
		KSR 15-00-06	Inmate I.D. Cards
		KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures
		KSR 15-00-08	Firehouse Living Area
		KSR 15-00-09	Use of Tobacco Products for Inmates and Staff

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KSR 15-00-10	Program Services for Special Housing Placement
KSR 15-01-01	Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel
KSR 15-01-02	Operational Procedures and Rules and Regulations for Unit A, B, & C: Staff Operational Procedures
KSR 15-01-03	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Rules and Regulations
KSR 15-01-04	Operational Procedures and Rules and Regulations for Unit A, B & C: Institutional Medical and Fire Safety Service: Unit Application
KSR 15-01-05	Operational Procedures Rules and Regulations for Unit A, B, & C: Institutional Inmate Services
KSR 15-01-06	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Honor Housing Criteria and Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations [Amended 12/14/99]
KSR 16-00-03	Inmate Access to Telephones
KSR 16-01-01	Visiting Regulations [Amended 12/14/99]
KSR 16-01-02	Lawn Visit Procedure and Regulations
KSR 16-01-03	Night Visit Regulations [Amended 12/14/99]
KSR 17-00-05	Assessment and Orientation, Consent Decree Notification to Inmates
KSR 17-00-07	Inmate Personal Property
KSR 17-00-08	Repair of Inmate Owned Appliances by Outside Dealers
KSR 18-00-04	Intratransfers, Identification Department, Departure - Admission and Discharge
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill
KSR 18-00-06	Classification
KSR 18-00-07	Kentucky State Reformatory Placement Committee
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-job (OJT) Training Program
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01	Technical and Adult Basic Level Learning Center Programs
KSR 20-00-04	Criteria for Participation in A College Program
KSR 20-00-06	English as a Second Language
KSR 21-00-01	Legal Aide Office and Inmate Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services [<u>Amended 3/14/2000</u>]
KSR 21-00-03	Library Services for <u>Special Management Unit (SMU)</u> [<u>Amended 3/14/2000</u>] [Unit D]
KSR 21-00-05	Library Services for Correctional Psychiatric Treatment Unit
KSR 22-00-03	Inmate Organizations
KSR 22-00-07	Inmate Magazine
KSR 22-00-08	Privilege Trips
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming
KSR 24-00-02	Substance Abuse and Chemical Dependency Program
KSR 25-00-01	Discharge of Inmates to Hospital or Nursing Home
KSR 26-00-01	Volunteer Services Program

DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: March 1, 2000

FILED WITH LRC: March 15, 2000 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 2000, 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 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 the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Kentucky Department of Corrections, 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40602-2400, Telephone (502) 564-2024, Facsimile (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs

(1) Type and number of entities affected: 532 employees of the correctional institutions, 1608 inmates, and all visitors to state correctional institutions.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Policy revisions.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1994-1996 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

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

(b) Kentucky: None

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

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed administrative regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

**JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(Amendment)**

501 KAR 6:080. Department of Corrections manuals.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards by the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. ~~[(1)]~~ The following material is incorporated by reference:

(1) ~~[(a)]~~ "Department of Corrections Manuals, March 14, 2000 [January 8, 1998]";

(2) ~~[(b)]~~ It may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m.

~~Offender Records Manual--None (Deleted 3/14/2000)~~

~~Stock Procedure Manual--None (Deleted 3/14/2000)~~

~~Food Services Manual - None~~

~~Classification Manual [(Amended 1/8/98)]~~

~~[Diet Manual--None (Deleted 3/14/2000)]~~

DOUG SAPP, Commissioner

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: March 1, 2000

FILED WITH LRC: March 15, 2000 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 2000, 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 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 the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Kentucky Department of Corrections, 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40602-2400, Telephone (502) 564-2024, Facsimile (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 2,948 employees of the Department of Corrections, 11,134 inmates, 14,211 parolees and probationers, and visitors to all state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the administrative regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

(3) Assessment of anticipated effect on state and local revenues: None

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed administrative regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

**WORKFORCE DEVELOPMENT CABINET
Department for Employment Services
Division of Unemployment Insurance
(Amendment)**

787 KAR 1:010. Application for employer account; reports.

RELATES TO: KRS 341.190

STATUTORY AUTHORITY: KRS 151B.020, 341.115

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation requires each employing unit to make application for an employer account and to make other additional reports as required by the division.

Section 1. Each employing unit having in the state in covered employment one (1) or more workers shall complete and file with ~~[request from]~~ the Division of Unemployment Insurance an "Application for Unemployment Insurance Employer Reserve Account" UI-1 (Rev. 6/91) ~~[-incorporated by reference herein, and shall submit this form to the division providing all information requested in the instructions to this form].~~

Section 2. Each employing unit shall complete and file with the Division of Unemployment Insurance the following reports ~~[make additional reports]~~ as required ~~[on the forms prescribed by the division]~~ in accordance with the instructions contained on the forms:

(1) ~~[-These forms include]~~ UI-1S, "Supplemental Application for Unemployment Insurance Employer Reserve Account (Rev. 1/93)";

(2) UI-3, "Employer's Quarterly Unemployment Wage and Tax Report (Rev. 7/99)";

(3) UI-3E, "Employer's Quarterly Unemployment Wage and Tax Report (EFT version) (Rev. 5/99)";

(4) ~~[4/94, UI-3R, "Reimbursing Employer's Quarterly Unemployment Wage Report (Rev. 4/94), UI-3S Employer's Quarterly Unemployment Wage and Tax Substitute Report (Rev. 8/93), UI-3X Employer's Quarterly Unemployment Wage and Tax Report (yellow express envelope) (Rev. 4/94), UI-3.1A Summary Contribution Report (Rev. 10/92);]~~ UI-3.2, "Request to Place Subject Employer's Account in Inactive Status (Rev. 1/90)";

(5) ~~[UI-14B Employer Schedule of Wage Report Adjustments (Rev. 1/99);]~~ UI-21, "Report of Change of Ownership or Discontinuance of Business in Whole or Part (Rev. 10/93)";

(6) UI-47, "Claim for Refund of Contributions (Rev. 8/93)";

(7) UI-74, "Application for Partial Payment Agreement (Rev. 4/88)";

REGULATORY IMPACT ANALYSIS

(8) UI-412A, "Notice to Employer of Claim for Unemployment Insurance Benefits (Rev. 9/92)"; and

(9) UI-203, "Overpayment and Fraud Detection (Rev. 4/96)". [9/94], UI-414 or UI-414A Report of Hire or Return to Work (Rev. 1-95) and are incorporated by reference the same as if reproduced in full herein. These forms are on file for public inspection in the Office of the Commissioner for Employment Services, 275 E. Main Street, 2W, Frankfort, Kentucky 40621.]

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) UI-1, "Application for Unemployment Insurance Employer Reserve Account (Rev. 6/91)";

(b) UI-1S, "Supplemental Application for Unemployment Insurance Employer Reserve Account (Rev. 1/93)";

(c) UI-3, "Employer's Quarterly Unemployment Wage and Tax Report (Rev. 7/99)";

(d) UI-3E, "Employer's Quarterly Unemployment Wage and Tax Report (EFT version) (Rev. 5/99)";

(e) UI-3R, "Reimbursing Employer's Quarterly Unemployment Wage and Tax Report (Rev. 4/88)";

(f) UI-3S, "Employer's Quarterly Unemployment Wage and Tax Substitute Report (Rev. 8/93)";

(g) UI-3X, "Employer's Quarterly Unemployment Wage and Tax Report (Rev. 4/94)";

(h) UI-3.1A, "Summary Contribution Report (Rev. 10/92)";

(i) UI-3.2, "Request to Place Subject Employer's Account in Inactive Status (Rev. 1/90)";

(j) UI-14B, "Employer Schedule of Wage Report Adjustments (Rev. 1/90)";

(k) UI-21, "Report of Change of Ownership or Discontinuance of Business in Whole or Part (Rev. 10/93)";

(l) UI-47, "Claim for Refund of Contributions (Rev. 8/93)";

(m) UI-74, "Application for Partial Payment Agreement (Rev. 4/88)";

(n) UI-203, "Overpayment and Fraud Detection (Rev. 4/96)";

(o) UI-412A, "Notice to Employer of Claim for Unemployment Insurance Benefits (Rev. 9/92)";

(p) UI-414, "Report of New Hire (or Refusal of Job Offer) (Rev. 1/95)"; and

(q) UI-414A "Report of New Hire (Rev. 1/95)".

(2) This material may be inspected, copied, or obtained at the Office of the Commissioner for Employment Services, 275 E. Main Street, 2W, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

MARGARET WHITTET, Commissioner

SHERRY DEATRICK, General Counsel

APPROVED BY AGENCY: February 28, 2000

FILED WITH LRC: April 14, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Monday, April 24, 2000, at 9 a.m. at the Department for Health Services Auditorium, 275 East Main Street, First Floor, Health Services Building, Frankfort, Kentucky 40621. Individuals interested in being heard at this hearing shall notify this agency in writing by Friday, April 14, 2000, 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 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: Margaret Whittet, Commissioner, Cabinet for Workforce Development, Department for Employment Services, 275 East Main Street, 2nd Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-5331, Fax: (502) -564-7452.

Contact Person: Margaret Whittet

(1) Type and number of entities affected: All employers subject to the unemployment compensation statutes, approximately 89,000.

(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 cost or savings: Minimal administrative cost savings due to no longer maintaining different form types and envelopes for reporting purposes.

1. First year: Indeterminate but minimal as noted.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: Use of the new reporting form will enable the Division of Unemployment Insurance to utilize the Revenue Cabinet Modernized Front End (MFE) system for employer quarterly unemployment wage and tax report processing. This is expected to lower total processing cost and to increase Unemployment Trust Fund interest earnings due to speedier deposit of tax payments; however, since the MFE system has not yet been implemented there is no reliable basis for estimating the effects.

(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: 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: No

(c) If detrimental effect would result, explain detrimental effect:

(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:

(11) TIERING: Is tiering applied? Tiering was not applied as all covered employers are subject to the same reporting provisions.

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. All local government instrumentalities with employment subject to the unemployment compensation statutes.

3. State the aspect or service of local government to which this administrative regulation relates. Only the requirement to file a report of employee wages with the Division of Unemployment Insurance. This revision will not affect the reporting requirement, merely

the form used for that purpose.

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

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development
(Amendment)

907 KAR 1:671. Conditions of Medicaid provider participation; withholding overpayments, appeals process, and sanctions.

RELATES TO: KRS 194.515, 205.510 to 205.990, 42 CFR 431.107, 455, 1002, 1003, 42 USC 1320a-3, a-3a, a-5, a-7, 1395cc, vv, 1396b, d, m, n

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050, 205.520, 205.560, 205.6318, 42 USC 1396a, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.8451 through 205.990, 205.624 and 194.515 provide that the Cabinet for Health Services and the Department for Medicaid Services shall be responsible for the control of Medicaid provider fraud and abuse. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes [sets forth] the provisions relating to Medicaid provider participation.

Section 1. Definitions. (1) "Abuse" means as defined by KRS 205.8451.

(2) "Administrative process" means meeting, review, investigation, hearing, appeal, deliberation or exchange of documents or information between the provider and the department.

(3) "Affiliate" means an individual agency or organization controlled by the provider or associated with the provider under common ownership or control.

(4) "Applicant" means a person or entity who submits an application to become a Medicaid provider.

(5) "Application" means the completion and submission of a Medicaid provider agreement and any required addendum specific to a provider type, which is the contract between the provider and the department for the provision of Medicaid services.

(6) "Billing agent" means a contractor that prepares and submits claims on behalf of the provider.

(7) "Bribes and kickbacks" means soliciting or receiving [any] payment, or offering or making [any] payment whether in cash or goods or services, in return for:

(a) Referring a recipient to a provider for [any] medical care, services or supplies; or

(b) Purchasing, leasing, ordering or recommending [any] medical care, services or supplies, for which payment is claimed under the Medicaid Program.

(8) "Cabinet" means the Cabinet for Health Services.

(9) "Claim" means a [any] request for payment under the Medicaid Program that relates to each individual billing submitted by a provider to the department which details services rendered to a recipient on a specific date [date(s)]. The claim may be either a line item of service or multiple [all] services for one (1) recipient on a bill.

(10) "Conversion" means converting a Medicaid payment, or any part of a payment, to a use or benefit other than for the use and benefit intended by the Medicaid Program.

(11) "Convicted" means as defined in KRS 205.8475, regardless

of whether an appeal from that judgment is pending.

(12) "Demand letter" means correspondence to an active or inactive provider stating a dollar amount is owed the program and shall be paid by a given date.

(13) "Department" means the Department for Medicaid Services and its designated agents.

(14) "Disclosing entity" means a Medicaid provider or the fiscal agent for the department.

(15) "Disclosure" means the provision of information in accordance with the requirements established [shown] in 42 CFR 455, Subpart B.

(16) "Exclusion" means the termination of the participation of a provider or the denial of the enrollment of a provider.

(17) "Factor" means as defined in 42 CFR 447.10.

(18) "False claim" means a claim for:

(a) Unfurnished medical care, services, or supplies; or

(b) Medical care, services, or supplies provided:

1. In excess of accepted standards of practice for the medical service;

2. In excess of established limits which were communicated, in writing, to providers by the department; or

3. Where there is documentation that the provider has knowledge of third-party coverage of the recipient, but the provider knowingly chooses not to bill the third-party payer.

(19) "Fiscal agent" means a contractor that processes or pays provider claims on behalf of the department.

(20) "Full investigation" means the activities of Kentucky's Medicaid Fraud and Abuse Control Unit of the Office of the Attorney General (MFACU) or any other law enforcement or investigative agency utilized to resolve a complaint of Medicaid fraud or abuse.

(21) "Furnish" means to provide medical care, services, or supplies that are:

(a) Provided directly by the provider;

(b) Provided under the supervision of the provider; or

(c) Prescribed by the provider.

(22) "Knowingly" means as defined in KRS 205.8451.

(23) "Managing employee" means the general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who conducts the day-to-day operation of, an institution, organization, or agency.

(24) "Medicaid Fraud and Abuse Control Unit" (MFACU) means a unit in the Office of the Attorney General of Kentucky, certified under the provisions of 42 USC 1396b(q), that [-MFACU] conducts a state-wide program for the investigation and prosecution of violations of [all] state laws regarding fraud and abuse in connection with the Medicaid Program.

(25) "Merit system" means an employee covered by KRS Chapter 18A.

(26) "Preliminary investigation" means the activities of the Office of Inspector General (OIG), MFACU, or the department to determine whether a complaint of Medicaid fraud or abuse has sufficient basis to warrant a full investigation.

(27) "Provider" means as defined by KRS 205.8451.

(28) "Recipient" means as defined by KRS 205.8451.

(29) "Reliable evidence" means:

(a) Preliminary determinations based on a preponderance of evidence as verified by the department by audit, of unacceptable practices or significant overpayments;

(b) Information of an ongoing investigation of a provider based on a preponderance of evidence, as verified by the department, involving fraud or criminal conduct pertaining to the Medicaid Program.

(c) Information based on a preponderance of evidence, as verified by the department, from a state professional medical licensing or certifying agency of an ongoing investigation of a Medicaid provider involving fraud, abuse, professional misconduct, unprofessional conduct, or utilization; or

(d) Information from the department or other sources based on a preponderance of evidence regarding unacceptable practices or program abuse.

(30) "Sanction" means an [any] administrative action taken by the department which limits a person's or a provider's participation in the Medicaid Program or imposes a fiscal penalty against the provider, including the imposition of civil penalties, and interest imposed at the

department's discretion and the withholding of future payments.

(31) "Services" means medical care, services, or supplies provided to Medicaid recipients.

(32) "Subcontractor" means an individual, agency, or organization to which a disclosing entity has:

(a) Contracted or delegated some of its management functions or responsibilities of providing medical care or services to its patients; or

(b) Has entered into a contract, agreement, purchase order or lease including real property, to obtain space, supplies, equipment or nonmedical services provided under the Medicaid Program.

(33) "Supplier" means an individual, agency, or organization from which a provider purchases goods or services used in carrying out its responsibilities under the Medicaid Program.

(34) "Terminated" means the provider's participation in the Medicaid Program has been ended, and that a contractual relationship no longer exists between the provider and the department for the provision of Medicaid covered services to Medicaid eligible recipients by that individual, entity, or organization.

(35) "Unacceptable practice [practice(s)]" means conduct by a provider which constitutes "fraud" or "provider abuse", as defined in KRS 205.8451(2) or (8), or willful misrepresentation, and includes the following practices:

(a) Knowingly submitting, or causing the submission of false claims, or inducing, or seeking to induce, a [any] person to submit false claims;

(b) Knowingly making, or causing to be made, or inducing, or seeking to induce, a [any] false, fictitious or fraudulent statement or misrepresentation of material fact in claiming a Medicaid payment, or for use in determining the right to payment;

(c) Having knowledge of an [any] event that affects the right of a [any] provider to receive payment [payment(s)] and concealing or failing to disclose the event with the intention that an unauthorized payment [payment(s)] be made or the payment is made in a greater amount than owed;

(d) Conversion;

(e) Soliciting or accepting bribes or kickbacks;

(f) Failing to maintain or to make available, for purposes of audit or investigation, administrative and medical records necessary to fully disclose the medical necessity for the nature and extent of the medical care, services and supplies furnished, or to comply with other requirements established [as contained] in 907 KAR 1:673, Section 4;

(g) Knowingly submitting a claim or accepting payment for medical care, services, or supplies furnished by a provider who has been terminated or excluded from the program;

(h) Seeking or accepting additional payments, for example, gifts, money, donations, or other consideration, in addition to the amount paid or payable under the Medicaid Program for [any] covered medical care, services, or supplies for which a claim is made;

(i) Charging or agreeing to charge or collect a [any] fee from a recipient for covered services which is in addition to amounts paid by the Medicaid Program, except for [any] required copayments[,] or recipient liability, if any, [as] required by the Medicaid Program;

(j) Engaging in conspiracy, complicity, or criminal syndication;

(k) Furnishing medical care, services, or supplies that fail to meet professionally recognized standards, or which are found to be non-compliant with licensure standards promulgated under KRS Chapter 216B and failing to correct the deficiencies or violation as reported to the department by the Office of Inspector General, Division of Licensure and Regulation, for health care or which are beyond the scope of the provider's professional qualifications or licensure;

(l) Illegally discriminating in the furnishing of medical care, services, or supplies as prohibited by 42 USC 2000(d) [based on a recipient's age, color, creed, disability, ethnicity, gender, marital status, national origin, race, religion, or sexual orientation];

(m) Having payments made to or through a factor, either directly or by power of attorney, as prohibited by 42 CFR 447.10;

(n) Offering or providing a [any] premium or inducement to a recipient in return for the recipient's patronage of the provider or other provider to receive medical care, services or supplies under the Medicaid Program;

(o) Knowingly failing to meet disclosure requirements;

(p) Unbundling; and

(q) An act committed by a nonprovider on behalf of a provider

which, if committed by a provider, would result in the termination of the provider's enrollment in the program.

(36) "Unbundling" means submitting multiple claims for constituent parts of services provided which results in enhanced reimbursement to a provider for a covered service where the claims do not conform with professionally recognized coding standards;

(37) "Withholding" means not paying a provider for claims which have been processed, pending the results of an investigation of a report of fraud or willful misrepresentation based upon receipt of reliable evidence or as a result of provider bankruptcy, failure to submit timely cost reports, or closure or termination of a business.

Section 2. Methods for Recoupment of Overpayments Made by the Medicaid Program. (1) If a determination is made by the department that a provider was overpaid, a demand letter shall be sent to the provider establishing [setting forth] the amount of the overpayment, the period of time involved, and the basis for determining the overpayment exists.

(2) The provider shall within:

(a) Sixty (60) calendar days from the date of the demand letter pay the amount of overpayment in full; or

b. Thirty (30) calendar days from the date of the demand letter submit a written request for a payment plan.

(3) If the amount of overpayment resulted from rate revisions and subsequent recalculations within the Medicaid Management Information System, the department shall apply the rate adjustment against the next payment cycle for the provider prior to notifying the provider of the amount of the overpayment. A provider shall be notified at least sixty (60) calendar days in advance of a [any] payment recalculation resulting from a reimbursement rate revision.

(4) A payment plan may be approved by the department, if a provider documents that payment in full would create an undue hardship. A written declaration of undue hardship shall include the following:

(a) Copies of financial statements which indicate payment in full within sixty (60) calendar days would create an undue hardship; and

(b) Copies of notarized letters from at least two (2) financial institutions indicating the provider's loan request was denied for the overpayment amount.

(5) Payment plans shall not extend beyond a six (6) month period, except as provided for in subsection (6) of this section.

(6) A payment plan approved, in writing, by the Commissioner of the Department for Medicaid with the concurrence of the secretary of the cabinet, in accordance with subsection (4) of this section, may be approved in excess of six (6) months, if the monthly repayment exceeds twenty-five (25) percent of the provider's average monthly Medicaid payment based on the previous twelve (12) month period.

(7) A [All] payment plan [plans] shall include provisions for payments of both principal and interest as provided in KRS Chapter 360. The assessment of interest shall be at the discretion of the department.

(8) If a provider fails to make a payment as specified in the payment plan or takes no action toward repayment, the department shall recoup the amount due from future payments. If a provider has insufficient funds available for recoupment through the payment system in the first payment cycle following the due date, payments shall continue to be recouped and the department may refer the account for collection.

(9) If a provider disputes the amount of overpayment, the provider may submit additional information, request a resolution in accordance with Section 8 of this administrative regulation, and request an administrative hearing in accordance with Section 9 of this administrative regulation. A cost-based provider who disputes the amount of overpayment due to the department, except for circumstances described in Section 4 of this administrative regulation shall follow the administrative process for appeals as outlined in Section 10 of this administrative regulation. Disputing the amount of overpayment shall not relieve the provider of his obligation to submit full payment or to request a payment plan in accordance with subsection (2) of this section.

(a) If the department determines that no adjustments are required as a result of the resolution process, the initial determination shall stand.

(b) If the department determines that the amount of overpayment demand should be reduced, a [any] refund due to the provider shall be

refunded to him within thirty (30) calendar days from the date of the final determination letter.

(c) If it is determined that the amount requested should be increased, the additional amount of overpayment due shall be subject to subsection (1) of this section.

(10) Withholding Medicare payments to recover Medicaid overpayments.

(a) The department may request that the Health Care Financing Administration (HCFA) withhold future Medicare payments to a provider in order to recover Medicaid overpayments to that provider. The requests for withholding shall be accomplished in accordance with the terms and conditions specified in 42 USC 1395v.

(b) Amounts withheld and forwarded to the department by HCFA which are ultimately determined by the department to be in excess of overpayments due to the Medicaid Program shall be returned to the provider.

(11) Statutory recovery. The department shall not issue payments otherwise due to a provider, if the department has been notified by a state or federal government agency or by a court that a court order exists requiring the department to withhold payments. The payments shall be withheld in accordance with the provisions of the order.

(12) Medicare overpayments. If ordered to do so by HCFA, the department shall recoup the federal share of Medicaid payments as a means to recover Medicare overpayments. The federal share of Medicaid payments is that portion of the payment funded with federal funds.

(13) A [Any] contract for the sale or change of ownership of a provider participating in the Medicaid Program shall specify whether the buyer or seller is responsible for [any] amounts owed to the department by the provider, regardless of whether the amounts have been identified at the time of the sale.

Section 3. Administrative Process for Detection of Unacceptable Practices. (1) A preliminary investigation of alleged unacceptable practice shall be conducted by the department or its agent, if:

(a) A complaint is received by or referred from:

1. The department;
2. The cabinet; or
3. The Office of Attorney General; or

(b) Questionable or unacceptable practices are identified by the department.

(2) If the findings of a preliminary investigation indicate that an incident of fraud or abuse involving substantial allegations or other indication of fraud may have occurred under the Medicaid Program, a referral for a full investigation shall be made to the MFACU or the Office of the United States Attorney, if appropriate.

(3) In order to facilitate a full investigation, the department shall, at the request of the MFACU or the Office of the United States Attorney, provide access to, and free copies of, [any] records, data, or information kept by the department, its contractors, or providers, if authorized, as specified in 907 KAR 1:672, Section 4.

(4) A full investigation shall continue until:

- (a) Appropriate legal action is initiated;
- (b) The investigation is discontinued because of insufficient evidence to support the allegation of unacceptable practice; or
- (c) The case is returned to the department for administrative action.

(5) At any time during a preliminary or full investigation, the department may make an administrative determination that a provider has committed an act of unacceptable practice based on receipt of reliable evidence. The department shall issue a written notice of a determination of unacceptable practice to the provider upon which an exclusion or sanctions are intended to be imposed, as specified in Section 9 of this administrative regulation. The notice shall be mailed to the provider's designated payment or correspondence address or last known address and shall clearly state:

- (a) The determination made;
- (b) The basis and specific reasons for the determination;
- (c) The effect of the [any] action to be taken;
- (d) The amount of overpayment or penalty, if any;
- (e) The effective date of the action; and
- (f) The hearing rights of the provider as outlined in Section 9 of this administrative regulation.

(6) At any time during a preliminary or full investigation, the department may refer the case to the United States Attorney's Office for appropriate action.

(7) The Medicaid Program may, as it deems necessary and reasonable, use random or other statistical sampling methodologies and extrapolate the Medicaid Program's findings based on the sample.

Section 4. Withholding of Payments During Investigation of Fraud or Willful Misrepresentation. (1) The department may withhold Medicaid payments as provided for in 42 CFR 455.23 upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud or willful misrepresentation under the Medicaid Program.

(2) The department may withhold payments without first notifying the provider of its intention to withhold payments.

(3) The department shall mail written notice to the provider at the provider's last known address of its withholding of program payments within five (5) calendar days of the date upon which withholding began.

(a) The notice shall establish [set-forth] the general allegations of the nature of the withholding action, including the types of payments and payment code sections to which fraud or willful misrepresentation is alleged to have occurred. The notice may not disclose [any] specific information concerning its ongoing investigation.

(b) The notice shall advise the provider:

1. That payments are being withheld in accordance with this administrative regulation;
2. The statutory and regulatory basis for withholding and the facts upon which the action is taken;
3. The date upon which withholding began;
4. That withholding shall be for a temporary period;
5. The circumstances under which withholding shall be discontinued;
6. The type of Medicaid claim, as appropriate, to which withholding shall apply;
7. The provider's right to submit written evidence for consideration by the department; and
8. The provider's hearing rights in accordance with Section 9 of this administrative regulation.

9. For providers who are reimbursed using a cost-based method, payments withheld pursuant to this section shall be in proportion to the type of claim established [set-forth] under this administrative regulation to which withholding shall apply.

(4) A [Any] withholding of payment action under this section shall be temporary and shall not continue after:

- (a) The investigation has been discontinued due to insufficient evidence of fraud or willful misrepresentation by the provider;
- (b) Legal proceedings related to the provider's alleged unacceptable practice are completed and all related issues have been resolved; or

(c) The matter is resolved between the department and the provider through an administrative determination of unacceptable practice, as specified in Section 3 of this administrative regulation.

(5) Upon completion of the process described in subsection (4)(a) and (b) of this section all moneys due on verified claims shall be promptly disbursed to the provider.

Section 5. Sanctions. (1) The department shall comply with the requirements of 42 CFR 1002.

(2) The department shall impose sanctions as provided in KRS 205.8467 and Sections 3, 4, 5, and 6 of this administrative regulation.

(3) The department may hold, during its administrative determination of unacceptable practice, a provider responsible and liable for the conduct and actions of its affiliates, representatives, employees, or subcontractors. However, conduct may only be imputed to another if the conduct was accomplished within the course of the duties of the provider to be sanctioned; and

(a) The provider knew or reasonably should have known of the conduct; or

(b) The conduct was effected with the knowledge and consent of the provider.

(4) If the department sanctions a provider, it may also sanction any affiliate of the provider. However, the determination to sanction

the affiliate shall be made during the process leading to the administrative determination of unacceptable practice, on a case-by-case basis, after full review and consideration of all relevant facts and circumstances leading to the sanction of the provider. The affiliate shall have the same notification and due process rights as the [any] provider.

(5) The sanction process may include the termination of the provider from the Medicaid Program; if a termination is made the termination notice shall specify the period of exclusion. In determining the sanction, or the duration of exclusion, the department shall consider as appropriate:

- (a) The number and nature of the unacceptable practice incidents;
- (b) The nature and extent of the [any] adverse impact the violations had on recipients;
- (c) The amount of damages to the Medicaid Program;
- (d) Other facts related to the nature and seriousness of the unacceptable practice; and
- (e) The previous record of violations by the provider under Medicare, Medicaid and any program administered by the cabinet.

(6) The sanction process shall include liability for civil payments, restitution of overpayments and agency costs as specified in KRS 205.8467.

(7) The department shall use a lien, as specified in KRS 205.8471 to assure payment of restitution and monetary penalties imposed under the administrative determination of fraud.

(8) A provider excluded from the Medicare Program shall be excluded from the Medicaid Program for the same period of time.

(9) The provider shall be notified in writing by the department of any sanctions that are imposed.

Section 6. Provider Participation Termination. (1) Except as provided in subsection (6) of this section, a provider's participation may be terminated by either the provider or the department upon thirty (30) calendar days written notice to the other without cause or as otherwise specified in the provider agreement.

(2) Except as provided in subsection (6) of this section, a provider's participation may be terminated and a period of exclusion imposed, if an administrative determination is made, as established [set forth] in Section 3 of this administrative regulation, that the provider engaged in an unacceptable practice.

(3) Except as provided in subsection (6) of this section and as provided for in 907 KAR 1:672, failure to maintain up-to-date information, or to submit the information within thirty-five (35) calendar days of a request by the department, shall result in termination of the provider's participation in the Medicaid Program.

(4) Except as provided in subsection (6) of this section, a provider's participation shall be terminated immediately, if it is determined that the information provided at the time of application was incorrect, inaccurate or incomplete and where provision of correct, accurate and complete information would have resulted in the denial of the application based upon one (1) or more of the factors established [set forth] in 907 KAR 1:672.

(5) Except as provided in subsection (6) of this section, a provider's participation shall be terminated, if the provider fails or refuses to pay or enter into an agreement to pay the amount of any penalty imposed, including interest, in accordance with Section 5 of this administrative regulation and KRS 205.8467 within sixty (60) calendar days from the date of the department's notice or the date of a hearing decision, if any.

(6) Before the participation of a nursing facility, as defined in 42 USC 1396(a), or an intermediate care facility for the mentally retarded, as defined in 42 USC 1396d(d), is terminated, it shall have the right to receive a hearing in accordance with Section 9 of this administrative regulation and 42 CFR 431.151 through 431.154.

(7) Except as provided in subsection (6) of this section, a provider's participation in Medicaid shall be terminated, if the provider fails to submit a completed and signed application within thirty-five (35) calendar days from the date of the notice to provide the application.

(8) Except as provided in subsection (6) of this section, a provider's participation in Medicaid shall be terminated and a period of exclusion imposed upon a Medicare or Medicaid related conviction through the judicial process.

(9) A provider's participation in Medicaid shall be terminated in

accordance with 42 CFR 1003.105 on the date of termination or suspension from Medicare.

(10) Except as provided in subsection (6) of this section, a provider's participation in Medicaid shall be terminated as of the date of a [any] termination, revocation, or suspension of a [any] registration, certification or license to practice a medical profession, or as required to provide medical care, services or supplies under Medicaid.

(11) Except as provided in subsection (6) of this section, a provider's participation:

(a) Shall be terminated and a new application required, if the ownership or controlling interest of the provider has substantially changed since the acceptance of its enrollment application, due to one (1) or both of the following actions:

1. The addition or elimination of one (1) or more partners of a provider organized as a partnership; or

2. The sale of the business or assets directly related to the provision of health care, provided the sale results in a change of ownership or control of a [any] provider;

(b) May be terminated and a new application required, if the ownership or controlling interest of the provider has substantially changed since the acceptance of its enrollment application, due to the sale or exchange of capital stock of a provider organized as a corporation; and

(12) A notice advising a provider of the termination and of the requirements to make a new application for enrollment shall be sent to the provider thirty (30) calendar days prior to his [its] termination from the program.

(13) Notice of termination.

(a) A notice of termination shall be in writing, mailed to the provider's last known address, and contain the following information:

1. The reason for the termination, if any;

2. The effective date of the termination;

3. The date the provider may submit an application for re-enrollment, if appropriate; and

4. The provider's hearing rights in accordance with Sections 8 and 9 of this administrative regulation.

(b) If notice has been provided in accordance with Section 3 (5) of this administrative regulation, no additional notice of termination shall be required.

(14) The department may extend participation or waive termination for a [any] provider of covered medical service, if necessary to assure that adequate medical services will be available in the area served by the provider.

(15) The department may terminate a provider immediately, if necessary to protect the health or well-being of Medicaid recipients.

Section 7. Provider Reinstatement or Re-enrollment Following Termination. (1) A provider whose participation has been terminated under the provisions of this administrative regulation may request reinstatement in accordance with the terms established [set forth] in the department's written notice and shall be subject to the enrollment requirements in accordance with 907 KAR 1:672. An application for enrollment under this section shall be identified by the provider as a reinstatement application.

(2) The department may only grant reinstatement from an exclusion based on a program violation, if the provider can demonstrate and assure the department that the violation which led to the sanction is corrected and shall not be repeated.

(3) If the department approves the request for reinstatement after imposition of a sanction in accordance with Section 5 of this administrative regulation, the department shall provide written notice to the provider and to all others who were informed of the sanction, specifying the date on which program participation may resume.

(4) A provider terminated from the Medicaid Program and excluded for a specified period of time shall be eligible for re-enrollment upon the expiration of the period of exclusion. Providers excluded on the basis of a conviction for a program related offense shall not be eligible for re-enrollment until the conviction is final and unappealable.

Section 8. Resolution of Provider Disputes Prior to Hearing. (1) If a provider disagrees with a Medicaid determination [determinations] with regard to an appealable issue [issues] as provided for in Section 9 of this administrative regulation, the provider may request a resolu-

tion meeting. The request shall be in writing and made within thirty (30) calendar days of the date of notice. A disagreement [Any disagreements] relating to cost-based reimbursement rates, including the rate, cost reporting, recoupments, withholding, and any other matter relating to the provider's payments and rates, shall be resolved in accordance with Section 10 of this administrative regulation.

(2) The provider's request for a resolution meeting shall clearly:

(a) Identify the disputed issue;

(b) State the basis on which the department's decision is believed to be erroneous;

(c) Provide documentation or a summary supporting the provider's position; and

(d) State the name, address, and telephone number of individuals who are expected to attend the resolution meeting on the provider's behalf.

(3) The agency shall, within five (5) calendar days of receipt of the request for a resolution meeting, send a written response to the provider identifying the time and place in which the meeting shall be held within thirty (30) days of receipt of the request and identifying the agency's representative [representative(s)] who is [are] expected to attend the meeting. The meeting shall be held within thirty (30) calendar days of receipt of the request.

(4) The resolution meeting shall be conducted in an informal manner as directed by the department's representative. The provider may present [any] evidence or testimony to support his case.

(5) A provider may, within thirty (30) calendar days of the date of the notice, submit [any] information which the provider wishes considered in relation to the department's determination without requesting a resolution meeting. The submission of additional documentation shall not extend the thirty (30) day time period for requesting a resolution meeting.

(6) The department may rescind, modify or take no action with regard to the disputed issue, but shall provide written notice to the provider of the department's decision within thirty (30) calendar days from the date of the resolution meeting, or from the date the information to be considered was presented to the department. The notice issued by the department shall include the determination and the facts upon which it is based with reference to applicable statutes and administrative regulations.

(7) Information submitted for the purpose of informally resolving a provider dispute shall not be considered a request for an administrative hearing.

Section 9. Administrative Hearing Process. (1) The administrative hearing shall be conducted by a hearing officer who is knowledgeable of Medicaid policy. The hearing officer shall be appointed by the secretary of the cabinet.

(2) The administrative hearing process shall be used in the following situations, except as specified in Section 10 of this administrative regulation:

(a) If the provider's participation is terminated as specified in Section 6 (2), (3), (4), (5), (6), (7), (8), (10), (11) and (14) of this administrative regulation or if a provider alleges discrimination as prohibited by 42 USC 2000(d) [on the basis of age, color, creed, disability, ethnicity, gender, marital status, national origin, race, religion, or sexual orientation]; or

(b) If the agency imposes a fiscal sanction; or

(c) If the agency requires the repayment of an overpayment or restitution; or

(d) If the provider's payments are being withheld in accordance with Section 4 of this administrative regulation.

(3) A written request for an administrative hearing shall be received by the department within thirty (30) calendar days of the date of the department's notice of a determination or a resolution decision if a resolution meeting determination was requested. This request shall be sent to the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 275 East Main Street, 6th [3rd] Floor, Frankfort, Kentucky 40621.

(4) The department shall forward to the hearing officer an administrative record which shall include the notice of action taken, the statutory or regulatory basis for the action taken, the department's decision following the resolution process, and any documentary evidence provided by the appellant to the department.

(5) The hearing officer shall schedule the hearing within thirty (30) calendar days of the receipt of the request from the provider and the hearing shall not be held later than thirty (30) calendar days thereafter. At least twenty (20) calendar days prior to the date of the hearing, written notice shall be sent by the hearing officer to the parties and their designated representatives. The notice shall inform them of:

(a) The date, time and place of the hearing. All hearings shall be held in Frankfort, Kentucky;

(b) The provider's right to request a continuance, including the manner and means by which a postponement may be requested and granted;

(c) The issues which are the subject of the hearing, including a citation to specific statutes and administrative regulations relating to those issues;

(d) The manner in which the hearing shall be conducted;

(e) The right of each party to:

1. Be represented by legal counsel or if not a corporation may represent himself;

2. Testify;

3. Produce witnesses;

4. Present documentary evidence;

5. Examine opposing witnesses; and

6. Examine, prior to the hearing, information, including exculpatory information, evidence to be heard at the hearing, if any, in the agency's possession.

(f) The provider's right to request a prehearing conference or exchange of information and documents; and

(g) The date of the prehearing exchange between the provider and department, if requested;

(h) The name, official title, address and telephone number of:

1. The hearing officer;

2. All parties to the hearing, including the counsel for the cabinet; and

3. The Commissioner of Medicaid.

(i) A statement that a [any] party who fails to attend or participate at any stage of the hearing may be held in default.

(6) A [Any] prehearing conference shall be held at least seven (7) calendar days in advance of the hearing date. Conduct of the prehearing conference shall comply with KRS 13B.070. Each party shall disclose the evidence that the party intends to introduce at the hearing, including documentary evidence and identification of witnesses.

(7) A request for a hearing shall be considered to be abandoned, if the provider does not appear at the hearing on the scheduled date and the hearing has not been previously rescheduled. A hearing request shall be withdrawn only under the following circumstances:

(a) The hearing officer receives a written statement from the provider stating that the request is withdrawn; or

(b) The provider makes a statement on the record at the hearing that he is withdrawing his request for the hearing.

(8) Documentary evidence to be used at the hearing shall be made available in accordance with the following:

(a) If copies of the documentary evidence which the provider intends to produce at the hearing have not been provided to the department, the documents shall be made available for examination by the department, upon request; and

(b) If copies of the documentary evidence which the department intends to produce at the hearing have not been provided to the provider or the provider's representative [representative(s)], the documents shall be made available for examination by the provider, upon request.

(9) Information relating to the selection of the provider for audit, investigation notes or other material which may reveal auditor investigation techniques, material prepared for submission to a law enforcement or prosecutorial agency, information concerning law enforcement investigations, or judicial proceedings or confidential sources or confidential information shall not be revealed.

(10) The hearing officer shall preside over the hearing and shall conduct the hearing in accordance with KRS 13B.080 and 13B.090.

(11) The individuals who may be present at the hearing, include:

(a) The provider;

(b) The provider's representative or counsel;

(c) Representatives of the department or state;

(d) An interpreter, if the appellant is deaf or hearing impaired or an

interpreter has been requested, because English is not the first language of the provider or witness;

(e) Witnesses for both parties subject to conditions imposed by the hearing officer;

(f) Members of the public, admitted at the discretion of the hearing officer, shall be entitled to be present at the hearing.

(12) The issues and documentation considered at the hearing shall be limited to issues directly relating to the determination.

(a) The department shall show the facts, circumstances, administrative regulations, or statutes on which the determination was based. The provider shall have the burden of showing that the determination of the department was incorrect.

(b) If the determination is based upon an alleged failure of the provider to comply with applicable generally accepted business, accounting, professional or medical practices or standards of health care, the department shall establish the existence of the practice or standard.

(c) The department shall be responsible for notifying the hearing officer of previous relevant violations by the provider under Medicare, Medicaid, and any program administered by the Cabinet for Health Services which the department wishes the hearing officer to consider in his deliberations.

(13) The hearing officer shall consider the facts as presented at the hearing, including supplementary material, if requested, and prepare a recommendation based on the record consistent with Medicaid policy as expressed in statutes and administrative regulations.

(a) The hearing officer shall prepare a hearing report to be issued within sixty (60) calendar days of the conclusion of the hearing or the closing of the record, and sent to each of the parties or their designated representatives.

(b) The hearing report shall include:

1. Findings of fact;
2. Conclusions of law;
3. Determination of issues; and

4. The hearing officer's recommendation and reasons for the determination.

(c) The hearing officer's recommendation shall be submitted to the secretary of the cabinet and to the department. The department or provider shall have fifteen (15) calendar days within which to file with the secretary exceptions to the hearing officer's recommendation. The secretary shall make the final decision of the cabinet pursuant to KRS 13B.120, supported by findings of fact and conclusions of law.

(d) In the correspondence transmitting the decision, clear reference shall be made to the availability of judicial review pursuant to KRS 13B.140 and 13B.150.

(e) The department shall maintain an official record of the hearing in compliance with KRS 13B.130.

(14) The hearing officer may grant an extension of [any] time frames specified in this section, except the requirement that the request for a hearing be filed in a timely manner, if determined necessary for the efficient administration of the hearing process or to prevent an obvious miscarriage of justice with regard to the provider. An [Any] extension of time for completion of the recommended order shall comply with the requirements of KRS 13B.110(2) and (3).

Section 10. Administrative Hearing Process for Use in Appeals Relating to Providers Subject to Cost-based Reimbursement. A participating provider [providers] reimbursed using a cost-based method shall have the right to appeal [all] issues relating to his [their] rates, cost reporting, recoupments, withholding, except as described in Section 4 of this administrative regulation, and any other matters, except termination, relating to the provider's payments and rates utilizing the process described in this section.

(1) Type of review. This section provides for a program review by the department and an administrative hearing held by an administrative hearing officer.

(2) Program review requirements and processes.

(a) Upon receipt of the department's determination with regard to rates, cost reports, withholding, recoupment, or other issues relating to payment rates a provider electing to request a program review shall request the review and the department shall review the request prior to thirty (30) calendar days, from date of notice by the department, of the determination. The department's determination on cost reports

shall include the basis for the determination.

(b) The request for review shall be in writing and identify the following:

1. The specific aspects of the determination with which the provider is dissatisfied; and
2. The specific reason the provider believes the determination is incorrect.

(c) The request shall be accompanied by [any] documentary evidence which the provider considers necessary to support his [its] position.

(d) The department may issue a decision in lieu of holding a program review meeting, based on information and documentation received from the provider. The department shall immediately notify the provider, in writing, of the decision and shall provide guidelines for requesting an administrative hearing.

(e) If a program review meeting is determined necessary, the department shall schedule the program review to be held within thirty (30) calendar days after receipt of the request from the provider.

(f) If an audited cost report (including cost reports that have been desk reviewed) or rate of reimbursement is not appealed in accordance with paragraph (a) of this subsection and subsection (3)(a) of this section. The provider's appeal rights shall terminate for that cost report or reimbursement rate and the cost report or reimbursement rate shall not be subject to reopening unless the department determines that there was suspected fraud or misrepresentation by the provider or that an error has been made by the department which should be corrected. Reopening of a cost report or rate of reimbursement for suspected fraud or misrepresentation by the provider or an error made by the department shall not extend [any] previous appeal limitations, except that a [any] change made as a result of the reopening may be appealed.

(g) A request for program review of a reimbursement rate, desk review, or audited cost report which does not specify the exact item [item(s)] being appealed shall not be accepted.

(h) A program review meeting, when determined necessary by the department, shall be conducted in the following manner:

1. The program review meeting shall be conducted by the director or his designee. The proceedings shall be recorded and a transcription made. If transcribed by the department, a copy shall be made available to the provider upon payment of the usual fee for copied material; if transcribed for the department by a court reporter, the provider may obtain a copy from the court reporter upon payment of the court reporter's usual fee for a copy.

2. During the program review meeting the provider shall provide [any] testimony or documentation which he desires in support of the provider's contention that the department's decision should be amended or nullified. Department staff who are employed under the state merit system and are knowledgeable of the issue, shall explain the department's position and present [any] evidence the staff feels will support the department's position.

3. Staff employed under the state merit system who are participating in the program review shall prepare and submit to the department a written opinion and recommendation with findings of fact, and supporting documentation. The department shall make a decision with regard to the issue within thirty (30) calendar days of the program review meeting either by adopting the recommendation of staff employed under the state merit system, or, if the department's decision is different from the recommendation [recommendation(s)] of state merit system staff, the department shall document the decision and provide, for the record, justification for that decision.

(h) The department may extend ~~[any-of]~~ the time frames that are specified in subsection (2) of this section, except for a request that a program review be held, if determined necessary for the efficient administration of the program review process or to prevent an obvious miscarriage of justice with regard to the provider.

(3) Administrative hearing requirements and processes.

(a) Upon receipt of the program review decision of the department, the provider may appeal the decision by mailing or delivering a request for appeal to the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 6th [Third] Floor, 275 East Main Street, Frankfort, Kentucky 40621. The request for a hearing shall be received by the Office of the Commissioner not later than thirty (30) calendar days from the date of the program review notification.

tion. If a request for an administrative hearing is not received prior to thirty (30) calendar days from the date of program review decision notice by the department of the determination the decision of the department shall be final.

(b) The request shall be in writing and include the following:

1. The specific aspect [aspect(s)] of the department's decision with which the provider is dissatisfied;

2. The specific reason [reason(s)] the provider believes the decision is incorrect; and

3. The documentary evidence previously introduced to the department which the provider considers necessary to support his position.

(c) The Secretary of the Cabinet for Health Services shall appoint a hearing officer who is knowledgeable of Medicaid administrative regulations and policies. The hearing officer shall schedule a hearing on the record not later than thirty (30) calendar days after the receipt by the department of the provider's request for a hearing. The hearing shall not be held later than thirty (30) days after the receipt of the request. At least twenty (20) calendar days prior to the date of the hearing, written notice shall be mailed by the hearing officer to the parties and their designated representatives. The notice shall comply with KRS 13B.050.

(d) The hearing officer shall restrict the scope of the hearing to the same issues considered during the program review hearing.

(e) The hearing shall be conducted in accordance with KRS 13B.080 and 13B.090.

(f) The hearing officer's recommendation shall comply with KRS 13B.110.

1. The hearing officer's recommendation shall be submitted to the Secretary of the Cabinet for Health Services. Either party shall have fifteen (15) calendar days within which to file exceptions to the hearing officer's decision, with the secretary. The secretary shall make the final decision of the agency pursuant to KRS 13B.120 supported by findings of fact and conclusions of law.

2. In the correspondence transmitting the decision, reference shall be made to the availability of judicial review pursuant to KRS 13B.140 and 13B.150.

(g) Except for a request that an administrative hearing be held, the hearing officer may grant an extension of [any] time frames specified in subsection (3) of this section, if determined necessary for the efficient administration of the hearing process or to prevent an obvious miscarriage of justice. An [Any] extension of time for completion of the recommended order shall comply with the requirements of KRS 13B.110(2) and (3).

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: February 17, 2000

FILED WITH LRC: March 3, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Selina Riley, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: None

(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 public comments were received during the NOI process.

(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 were received during the NOI process.

(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: None

(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: These technical and clarification changes will be budget neutral.

(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:

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(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:

(b) State whether a detrimental effect on environment and public health would result if 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 was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

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.
N/A

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

PROPOSED NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MARCH 15, 2000

KENTUCKY STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS
(New Administrative Regulation)

201 KAR 18:191. Repeal of 201 KAR 18:190.

RELATES TO: KRS 322.290

STATUTORY AUTHORITY: KRS 322.290

NECESSITY, FUNCTION, AND CONFORMITY: 201 KAR 18:190 is being repealed because the information contained in that administrative regulation will be addressed in 201 KAR 18:192.

Section 1. 201 KAR 18:190, Continuing professional development, is hereby repealed.

TED R. RICHARDSON, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: February 17, 2000

FILED WITH LRC: February 18, 2000 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 24, 2000, at 1:30 p.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 17, 2000, 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 licensed professional engineers, and 2300 land surveyors.

(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: No revenue is required to implement or enforce the regulation because it is a repealer regulation.

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensees are treated uniformly under the law.

JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)

505 KAR 1:090. Supervised placement revocation.

RELATES TO: KRS 605.090, 635.100

STATUTORY AUTHORITY: KRS 605.150, 635.100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 605.090 permits the Department of Juvenile Justice to place a juvenile committed to the department in a home in the community upon such terms and conditions and under such supervision as the department deems necessary. If the juvenile violates the terms of the placement, KRS 605.090 permits the department to change the juvenile's placement, and KRS 635.100 permits the department to order that the juvenile be taken into custody and conduct a hearing to determine whether conditions of placement have been violated. If the supervised placement has been violated, the department may revoke the supervised placement, remove the juvenile from the home and place the juvenile in a different treatment setting. This administrative regulation sets forth the process for revocation of supervised placement.

Section 1. Definitions. (1) "Commissioner's warrant" means a document issued by the department directing that a juvenile be taken into custody, pursuant to KRS 635.100.

(2) "Safety concern" means behavior that places the juvenile or community at risk for physical injury.

(3) "Supervised placement revocation hearing" means a hearing conducted by a hearing officer to determine if conditions of supervised placement have been violated.

Section 2. Request for Supervised Placement Revocation. (1) A juvenile that has been arrested or charged with the commission of a felony offense shall be considered a risk to the community and shall

have supervised placement revocation initiated by the assigned juvenile services worker. If there are extenuating circumstances related to the juvenile's behavior or the offense that the juvenile services worker feels makes initiation of supervised placement revocation unnecessary, the juvenile services worker may request, through the chain of command, that the juvenile services regional manager authorize that the revocation not be initiated.

(2) In the case of a youth requiring immediate placement as a result of safety concern:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and a written statement supporting the request for the issuance of a commissioner's warrant to his juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall issue a commissioner's warrant and shall forward the request to the Division of Program Services.

(c) The juvenile services worker shall immediately notify the Division of Program Services when the commissioner's warrant is executed and forward a copy of the executed document to the Division of Program Services.

(d) The Director of the Division of Program Services, or designee, shall, upon receipt of a request for immediate placement, contact the Centralized Intake/Classification Branch Manager and inform her of the pending action and, upon notice that the juvenile has been taken into custody, shall:

1. Schedule a probable cause hearing within five (5) days, excluding weekend and holidays, of the youth being taken into custody, unless a continuance is requested by the juvenile or his attorney;

2. In writing, notify the juvenile, his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and forward a copy of the notification letter to appropriate department personnel;

3. Notify the juvenile, his parents or other person exercising custodial control of his right to be represented by counsel;

4. Forward a copy of the notification letter to the last attorney of record, counsel for the juvenile, or the Department of Public Advocacy, as appropriate;

5. Notify the juvenile, his parents or other person exercising custodial control, attorney and the juvenile services worker of the time and location of the hearing; and

6. Conduct the hearing.

(e) The juvenile services worker, or current custodian of the juvenile, shall ensure that a copy of the notification letter signed by the juvenile is returned to the Division of Program Services.

(f) The juvenile services worker or the juvenile services district supervisor shall be responsible for presenting the case against the juvenile at the probable cause hearing. If the evidence presented includes documents, a copy of each document shall be given to the hearing officer for inclusion in the record and to the juvenile or his attorney.

(g) The probable cause hearing shall:

1. Be limited to a determination as to whether there is probable cause to believe that the juvenile violated any term(s) of the conditions of supervised placement, which may be proven by hearsay evidence, and whether there is a safety concern;

2. Have attendance limited to the juvenile, parents or other person exercising custodial control, legal counsel, department personnel, and witnesses as necessary;

3. Be conducted informally; and

4. Be mechanically recorded by the hearing officer.

(h) At the probable cause hearing, the juvenile shall have a right to:

1. Testify or refuse to testify in his own behalf;

2. Examine and cross-examine witnesses; and

3. Present evidence negating the determination of probable cause.

(i) At the conclusion of the probable cause hearing, the hearing officer shall:

1. Summarize the allegations and evidence presented and issue a decision determining whether there is probable cause to believe

the juvenile has violated a condition(s) of supervised placement;

2. If probable cause is found, determine whether there is probable cause to believe a safety concern exists that requires that the juvenile remain in custody; and

3. If probable cause has been established, provide immediate notice to the juvenile services regional manager, or designee, and the Division of Program Services.

(j) Upon receipt of notice that probable cause has been established, the Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

(k) If probable cause is not established, the juvenile shall be immediately released from custody and the juvenile services worker shall make arrangements for the juvenile to continue on supervised placement.

(l) If probable cause is established but a safety concern is not present, the juvenile shall be released from custody and the proceeding shall continue pursuant to section (3) of this section.

(3) In the case of a juvenile not requiring immediate placement as a result of safety concerns:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and revocation hearing request to the juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall forward the request to the Director of the Division of Program Services, or designee. An out-of-home placement packet shall be forwarded by the Court/Placement Specialist to the Centralized Intake/Classification Branch.

(c) The Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

Section 3. Revocation Hearing. (1) The revocation hearing shall:

(a) For a juvenile in custody on a commissioner's warrant, be held within ten (10) days, excluding weekends and holidays, of the probable cause hearing, unless a continuance is requested by the juvenile or his attorney; and

(b) Be conducted by the assigned hearing officer.

(2) The hearing officer for the supervised placement revocation hearing shall:

(a) Notify the juvenile and his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and their right to be represented by counsel;

(b) Notify the juvenile, his parents or other person exercising custodial control, legal counsel, and department staff of the time and location of the hearing;

(c) Notify department staff that they shall, upon written request, provide copies of all revocation documents to the juvenile's attorney within five (5) working days of receipt of the request;

(d) Conduct the revocation hearing;

(e) Open the hearing by reading the term(s) of supervised placement allegedly violated, which shall set the parameters of the hearing;

(f) Administer the oath and take testimony from witnesses;

(g) Allow all parties to establish pertinent facts and circumstances relative to the allegations, bring witnesses, present evidence and question or refute any testimony or evidence presented, including the opportunity to cross-examine witnesses;

(h) Mechanically record the hearing;

(i) Based on a preponderance of the evidence presented at the hearing, determine whether the juvenile violated one (1) or more terms of his supervised placement; and

(j) Submit written findings of fact and a recommendation regarding revocation to the regional division director and the juvenile's attorney within three (3) working days of the conclusion of the hearing.

(3) The juvenile services worker or the juvenile services district supervisor who requested the hearing shall be responsible for presenting the department's case at the hearing. The juvenile services worker shall provide copies of documentation supporting the revocation request for entry into the record as evidence and shall be prepared to offer a recommendation as to appropriate treatment or sanctions. If the juvenile services worker plans to call witnesses to

testify, it shall be the worker's responsibility to have the witnesses present for the hearing.

(4) If the hearing officer has determined that a violation has occurred, the regional division director, or designee, shall make the final decision regarding the results of the revocation hearing. Options may include, but not be limited to, the following:

(a) If the hearing officer determined that a condition of supervised placement has been violated and revocation is warranted, a decision may be made for out-of-home placement.

(b) If the hearing officer determined that a condition of supervised placement has been violated, the division director may determine that revocation is not warranted and permit the juvenile to remain in the community on supervised placement. If the juvenile remains in the community, the juvenile services worker shall prepare revised conditions of supervised placement, with increased sanctions, within five (5) calendar days from the receipt of the revocation hearing decision. Failure by the juvenile to abide by the revised conditions may result in a request for supervised placement revocation.

(5) If the hearing officer has determined that the juvenile did not violate a condition of supervised placement, the juvenile shall remain on supervised placement.

(6) The regional division director, or designee, shall cause a decision letter to be sent by certified mail, return receipt requested, to the juvenile, the parents or other person exercising custodial control, and the juvenile's attorney within five (5) working days of receipt of the hearing officer's findings of facts. The decision letter shall be copied to appropriate department staff. The decision letter shall contain:

(a) Specific condition(s) of supervised placement violated;

(b) Evidence relied upon in making the final decision; and

(c) The final decision.

(7) If supervised placement is revoked, the juvenile shall be advised that a decision concerning treatment and placement shall be rendered by the Centralized Intake/Classification Branch Manager.

(8) A juvenile who has remained in custody during the revocation process shall be placed, to the extent possible, within ten (10) days, excluding weekends and holidays, following the final decision to revoke.

Section 4. Appeal. A juvenile aggrieved by the decision of the regional division director may, within ten (10) days, submit a written request for reconsideration to the Commissioner of the Department of Juvenile Justice. The request shall provide justification for the requested reversal and shall be no longer than two (2) written pages. The commissioner, or his designee, shall, within five (5) days, issue a decision, which shall not be appealable on the merits.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

APPROVED BY AGENCY: March 10, 2000

FILED WITH LRC: March 13, 2000 at 10 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 24, 2000, at 9 a.m. in the conference room at the Department of Juvenile Justice, 1025 Capital Center Drive, Building #3, Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by April 17, 2000, 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 is made for a transcript. 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: Michael Keith Horn, Office of General Counsel, Department of Juvenile Justice, Capital Complex East, 1025 Capital Center Drive, Building #3, Third Floor, Frankfort, Kentucky 40601, (502) 573-2738, FAX: (502) 573-4308.

REGULATORY IMPACT ANALYSIS

Agency Contact: Michael Keith Horn

(1) Type and number of entities affected: The type and number of entities affected are all juveniles, and their families, who are or will be placed on supervised placement.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received. Implementation of these regulations will not affect the cost of living or employment in the areas served.

(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. Implementation of this regulation will not affect the cost of doing business in the areas served.

(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 no change in compliance, reporting and paperwork requirements for the first year.

2. Second and subsequent years: There will be no change in 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: There will not be any first year direct or indirect costs to the Department of Juvenile Justice.

2. Continuing costs or savings: There will not be any continuing direct or indirect costs or savings to the Department of Juvenile Justice.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be no change in reporting and paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: There will not be any anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Sources of revenue used to implement this administrative regulation include the Department of Juvenile Justice 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: There will be no economic impact from this administrative regulation. However, a public hearing has been scheduled for the regular regulation during which public comments may be received.

(b) Kentucky: There will be no economic impact from this administrative regulation. However, a public hearing has been scheduled for the regular regulation during which public comments may be received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternative methods were considered because this method is mandated by KRS 635.100.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There are no effects on the public health and environmental welfare, but this regulation will help provide effective treatment for juveniles committed to the Department of Juvenile Justice and is also in the best interest of the safety and welfare of juveniles on supervised placement and the communities in which they live.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There would be no detrimental effects on the public health or environmental welfare, but this regulation will help provide effective treatment for juveniles committed to the Department of Juvenile Justice and is also in the best interest of the safety and welfare of juveniles on supervised placement and the communities in which they live.

(c) If detrimental effect would result, explain detrimental effect: There would be no detrimental effect.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(10) Any additional information or comments: There are no additional information or comments of which we are aware.

(11) TIERING: Is tiering applied? No. This administrative regulation sets forth the supervised placement revocation process that applies to all offices of the Department of Juvenile Justice and is effective statewide.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Long Term Care
(New Administrative Regulation)**

907 KAR 1:070. Homecare Waiver Services.

RELATES TO: 42 CFR 441 Subpart G, Subpart B, 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, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet 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 provisions for Homecare Waiver Services.

Section 1. Definitions. (1) "Applicant" means an individual who is applying for Homecare Waiver Services.

(2) "Case management" means:

(a) Services that oversee the application, assessment, and re-assessment of individuals for waiver services; and

(b) A system under which responsibility for locating, coordinating and monitoring a group of services rests with a designated person.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Eligible Individual" means a person who has applied for medical assistance and has been determined to have met all applicable conditions for eligibility, pertaining to:

(a) Kentucky's Medicaid Program; and

(b) Homecare Waiver Services.

(5) "Environmental accessibility adaptation" means a physical adaptation to the home that is required by the individual's plan of care that is necessary to ensure the health, welfare and safety of the individual.

(6) "Homemaker services" means an array of services consisting of general household activities provided by a trained homemaker.

(7) "Personal care services" means assistance with activities of daily living or related housekeeping chores.

(8) "Participating" means a provider of medical services taking part in the Medicaid Program by agreeing to comply with program administrative regulations and providing services to eligible recipients.

(9) "PRO" means a peer review organization which is under contract with the department.

(10) "Provider" means an entity pursuant to KRS 205.8451(7).

(11) "Staff person" means an employee or volunteer of a provider or agency who provides the direct delivery of services to an eligible individual.

Section 2. Individual Eligibility Determination and Redetermination. (1) An individual aged sixty (60) or over shall be eligible to participate in Homecare Waiver Services if he meets the:

(a) Nursing facility (NF) level of care requirements pursuant to 907 KAR 1:022; and

(b) Technical and financial eligibility criteria of Kentucky's Medical Assistance Program.

(2) An individual shall not be eligible to participate in Homecare Waiver Services if he is:

(a) An inpatient of:

1. A hospital;

2. A nursing facility; or

3. An intermediate care facility for individuals with mental retardation or developmental disabilities; or

(b) A recipient of services in another Medicaid waiver program.

(3) Redetermination of eligibility factors pursuant to subsection (1) of this section shall occur:

(a) At twelve (12) month intervals;

(b) More frequently if the individual's condition or needs change; or

(c) When an individual reapplies for the Homecare Waiver Services Program pursuant to Section 3(4)(a) or (c) of this administrative regulation.

Section 3. Services Provided to an Eligible Individual. (1) Pursuant to subsection (3) of this section, Homecare Waiver Services shall include:

(a) Case management;

(b) Homemaker;

(c) Personal care; and

(d) Pursuant to subsection (2) of this section, environmental accessibility adaptations.

(2) Environmental accessibility adaptations shall:

(a) Meet all applicable state or local building codes;

(b) Be limited to a maximum of \$1,000 per eligible individual per calendar year; and

(c) Exclude adaptations or improvements to the home that:

1. Have no direct medical or remedial benefit to the individual; and

2. Add to the total square footage of the home.

(3) A service pursuant to subsection (1) of this section shall be covered if:

(a) Pursuant to Section 5(2)(a)4 of this administrative regulation, it is entered on form DSS 891-1,2 "Plan of Care", and approved by the department;

(b) The service is prior authorized by the department using form MAP 9 (Rev. 01/2000) "Commonwealth of Kentucky Cabinet for Health Services Kentucky Medicaid Program Prior Authorization for Health Services"; and

(c) It is managed and coordinated by a provider or agency.

(4) A service pursuant to subsection (1) of this section shall be:

(a) Terminated if an individual leaves the Homecare Waiver Services Program;

(b) Suspended if an individual receives a temporary discharge from the Homecare Waiver Services Program pursuant to Section 2(2)(a) of this administrative regulation for not more than sixty (60) consecutive days; or

(c) Resumed if an individual, pursuant to paragraph (b) of this subsection, returns to the Homecare Waiver Services Program within sixty (60) days.

Section 4. Exclusions for Provider Participation. A provider of case management shall not be an eligible provider of a service pursuant to Section 3(1)(b) through (d) of this administrative regulation.

Section 5. Provider Responsibilities. (1) A provider of personal care and homemaker services shall:

(a) Provide services throughout the geographic area covered under its plan;

(b) Treat the client in a respectful and dignified manner;

(c) Involve the client and caregiver in the delivery of services;

(d) Provide services in a safe manner;

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- (e) Permit staff of the department to monitor and evaluate services provided;
- (f) Maintain written:
 - 1. Job descriptions for each position;
 - 2. Qualifications of staff;
 - 3. Training standards;
 - 4. Personnel policies; and
 - 5. Wage scales for each job category;
- (g) Provide professional on-site supervision of staff:
 - 1. One (1) time per month; or
 - 2. More frequently, as determined by the supervisor;
- (h) Assure that all staff shall:
 - 1. Be age eighteen (18) or older; and
 - 2. Demonstrate an ability to:
 - a. Read;
 - b. Write;
 - c. Understand instructions;
 - d. Carry out instructions;
 - e. Record messages;
 - f. Keep simple records; and
 - g. Maintain client confidentiality;
- 3. Not have been convicted of a felony as evidenced by a valid criminal records' investigation report obtained from the Kentucky Department of Justice and maintained in the staff's personnel file;
- 4. Provide a current tuberculosis skin test with a copy of the test results filed in the staff's personnel file;
- 5. Not serve clients if the staff person has contracted an infectious disease of any nature until his condition is determined not to be contagious as supported by a physician's statement submitted to the provider by the staff person.
- (2) A provider of case-management services shall comply with subsection (1)(a) through (h) of this section; and
- (a) Assure that:
 - 1. Each office is:
 - a. Staffed to operate thirty-seven and one-half (37.5) hours per week during normal working hours; and
 - b. Accessible to persons who are disabled;
 - 2. Each case manager and case-management supervisor shall meet:
 - a. Qualification;
 - b. Certification; and
 - c. Training requirements;
 - 3. Uniform procedures for verification of client eligibility and case management are used;
 - 4. An eligible individual served by the provider shall receive services pursuant to a care plan developed cooperatively with a case-management team, pursuant to paragraph (f) of this subsection and recorded on form DSS 891-1,2 "Plan of Care", and the plan shall:
 - a. Relate to the assessed problem;
 - b. Identify the:
 - (i) Goals to be achieved;
 - (ii) Scope, duration and units of service; and
 - (iii) Source of services;
 - c. Incorporate a reassessment plan;
 - d. Be signed by the client and case-management team;
 - (b) Describe:
 - 1. Its methods for referring an eligible individual to other appropriate programs and services;
 - 2. Its program monitoring procedures; and
 - 3. Its case-management plan, including:
 - a. Implementation;
 - b. Short-term goals; and
 - c. Long-term goals;
 - 4. The manner in which services shall be delivered to an eligible individual, including the units of service;
 - (c) Provide the following information regarding its organizational structure:
 - 1. A description of its legal identity, documented by the following items:
 - a. Articles of incorporation;
 - b. Mission statement;
 - c. Bylaws; and
 - d. Intergovernmental agreements (if applicable);
 - 2. Its governing board membership;
 - 3. An organizational chart;
 - 4. A description of its case-management services staffing plan accompanied by:
 - a. Current staff's resumes; and
 - b. The number of full time equivalents (FTE's) for each position type;
 - 5. A description of its telephone system including an explanation of how it shall provide message and referral services during:
 - a. Off hours; and
 - b. Weekends;
 - 6. Its procedures which govern financial responsibility;
 - 7. Financial statements and an independent audit for the previous year;
 - 8. The provider's experience in working with the population aged sixty (60) and older that have functional impairment and disabilities;
 - 9. The provider's plan to provide monitoring of:
 - a. Services; and
 - b. Quality of care provided to an eligible individual;
 - 10. Documentation that interagency agreements with provider organizations within the geographic service area are signed and in place;
 - (d) Collect and report to the department, quarterly:
 - 1. Summary data; and
 - 2. Client-specific data;
 - (e) Comply with the appeal process pursuant to:
 - 1. 907 KAR 1:560;
 - 2. 907 KAR 1:563; and
 - 3. 907 KAR 1:671;
 - (f) Perform an assessment of an eligible individual:
 - 1. At the initial contact with a case manager;
 - 2. Every twelve (12) months thereafter;
 - 3. More frequently if an individual's condition or needs change;
 - or
 - 4. When an individual requests readmission to the Homecare Waiver Services Program;
 - 5. Using the following forms:
 - a. DSS 891-1,2;
 - b. MAP 350 "Long Term Care Facilities and Home and Community Based Program Certification";
 - c. "State of Kentucky Aging Services Client Enrollment";
 - d. MAP 10H "Kentucky Medicaid Program Home and Community Based Services Waiver";
 - e. MAP-24 (January, 2000 Revision) Department for Community Based Services form; and
 - 6. By a team consisting of a:
 - a. Social worker who possesses a:
 - (i) Bachelor or master's degree in social work, gerontology, psychology, sociology or a related field; or
 - (ii) Bachelor's degree in a field other than social work, gerontology, psychology, sociology or a related field and has two (2) years of work experience with the elderly or with physically disabled individuals; and
 - b. Registered nurse who possesses a current Kentucky nursing license;
 - (g) Provide bimonthly on-site monitoring by a case-management team member to assure that an eligible individual's needs, as identified in the care plan, are met;
 - (h) Document in an eligible individual's case record:
 - 1. The services provided pursuant to this administrative regulation; and
 - 2. Each contact with, or on behalf of, an eligible individual.
 - (3) A provider of environmental accessibility adaptations shall be:
 - (a) An individual contractor or agency; and
 - (b) Licensed in accordance with state and county building codes in the counties in which they work.
 - Section 6. Applicant Level of Care Determination Process. (1) Pursuant to Section 2(1)(a) of this administrative regulation, a case-management team member shall telephone the PRO and provide required applicant information pursuant to Section 5(2)(a)4 of this

administrative regulation.

(2) The PRO then shall determine whether or not an applicant meets nursing facility level of care requirements and shall:

- (a) Verbally notify a case manager of its determination; and
- (b) Send written confirmation of its determination to a case manager;

(3) Upon receipt of the PRO's determination a case manager shall send the following documentation to the PRO:

- (a) A DSS 891-1,2;
- (b) A MAP 350;
- (c) A MAP 10H;
- (d) A "State of Kentucky Aging Services Client Enrollment" form; and

(e) A confirmation notice stating that the applicant meets nursing facility level of care requirements; and

(f) A MAP-24 if services resume pursuant to Section 3(4)(c) of this administrative regulation.

(4) Upon receipt of the items listed in Section 6(3)(a) through (f), the PRO shall generate a document approving or denying an applicant for each homecare waiver service requested;

(5) The department ensures that this document is forwarded to:

- (a) Each homecare waiver service provider; and
- (b) The applicant;

(6) If the PRO determines that an applicant does not meet nursing facility level of care requirements the PRO shall:

- (a) Verbally notify a case manager of its determination; and
- (b) Send written notification of its decision to:
 1. A case manager;
 2. The Department for Community Based Services; and
 3. The applicant, whose notification shall contain appeal right information.

Section 7. Training Requirements. (1) Personal care and homemaker services training shall:

- (a) Be conducted by:
 1. A recognized institution of learning; or
 2. If by the employing agency, a professional specialist, who shall be:

- a. A nurse;
- b. A social worker;
- c. A home economist;
- d. A nutritionist or dietitian; and
- e. A personal care or homemaker employer;

(b) Include sixty (60) hours of comprehensive training as follows:

1. Sixteen (16) hours of training shall be completed by staff prior to any work assignments and:

- a. Shall include:
 - (i) An overview of the Office of Aging Services;
 - (ii) The role of the personal care and homemaker staff;
 - (iii) Recordkeeping and confidentiality; and
 - (iv) A supervised home visit with an experienced personal care or homemaker staff for a period of four (4) hours;
- b. Instruction shall:

(i) Be provided to new staff within the first week of employment; and

(ii) Include communication techniques appropriate to working with older people.

c. Instruction shall be provided within the first month of employment and shall include how to:

- (i) Maintain a clean and safe environment; and
- (ii) Respond to hazards; and

2. Forty-four (44) hours shall be completed within the initial six (6) months of employment which shall include:

- a. Food and nutrition;
- b. Personal care;
- c. Basic first aid; and
- d. Medications;

(c) Include a minimum of six (6) hours of continuing education training for staff who perform personal care and homemaker job functions pursuant to Section 1(6) and (7) of this administrative regulation. This training shall be provided:

1. By an employing provider each fiscal year; and
2. On topics appropriate to the job functions of a personal care

or homemaker staff.

(d) Be documented in a staff member's personnel file by an employing agency, including:

1. A staff member's attendance;
2. A staff member's number of hours credit;
3. The subject matter of the training;
4. A course outline;
5. An instructor's name and title; and
6. A staff member's test results.

(2) Case managers shall be required to attend:

(a) Fourteen (14) hours of case-management orientation training; and

(b) Four (4) hours of continuing education training, pertinent to the job function, on a quarterly basis.

Section 8. Recipient Choice. (1) An eligible individual or his legal representative shall:

(a) Be given a choice to receive:

1. Home and community based services; or
2. Nursing facility services subject to the limitations established in Section 2 of this administrative regulation; and

(b) Pursuant to paragraph (a)1 and 2 of this subsection, complete, sign, and date from MAP 350; and

(2) An eligible individual or his legal representative shall select participating Homecare Waiver Services providers from whom he wishes to receive services.

Section 9. Appeal Rights. (1) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(2) An appeal of a negative action regarding NF level of care or a service to a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(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) The following material is incorporated by reference:

(a) MAP 10-H, Kentucky Medicaid Program Homecare Waiver Services, January 2000 Revision;

(b) MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form, January 2000 Revision;

(c) MAP-4100H, Homecare Waiver Services, Provider Information and Services, January 2000 Revision;

(d) MAP-9, Commonwealth of Kentucky, Cabinet for Human Resources, Kentucky Medicaid Program, Prior Authorization for Health Services, December 1995 Revision;

(e) DSS 891-1,2, The Plan of Care, July 1996 Revision; and

(f) The State of Kentucky, Aging Services Client Enrollment, January 2000 Revision; and

(g) MAP-24, Department for Community Based Services form, January, 2000 Revision.

(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. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: February 23, 2000

FILED WITH LRC: March 9, 2000 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written

comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Selina Riley, 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: Providers of case management, homemaker services, personal care services and environmental accessibility adaptation services may be affected. However, since this is a new waiver the number of entities that will provide services is unknown at this time. It is expected that 900 unduplicated recipients will be served in the first year of this waiver.

(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 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 comments received: No comments were received.

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

1. First year following implementation: As these services are currently being funded through other sources the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this administrative regulation will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$2,834,050

2. Continuing costs for second year: \$3,206,935; for third year: \$3,631,931

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administrated by the Office of Aging Services through an inter-agency agreement with the Department for Medicaid Services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

(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 70.55% equaling \$1,999,422 and state matching funds of 29.45% equaling \$834,628 will be expended. State revenues will come from the Office of Aging Services, Cabinet for Health Services, 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: To be implemented statewide. No comments were received.

(b) Kentucky: No comments were received.

(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: Will ensure the availability of homecare services for individuals who are aged and disabled, 60 years of age or older and continue to reside in the community.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if homecare waiver services are unavailable.

(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.

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Long Term Care (New Administrative Regulation)

907 KAR 1:072. Payments for Homecare Waiver Services.

RELATES TO: 42 CFR 441 Subpart G, 42 USC 1396 a, 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, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet 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 Homecare Waiver Services.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Family member" means:

(a) Husband or wife;

(b) Natural or adoptive parent, child or sibling;

(c) Stepparent, stepchild, stepbrother, stepsister;

(d) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;

(e) Grandparent or grandchild;

(f) Spouse of grandparent or grandchild;

(g) Aunt or uncle; or

(h) Spouse of aunt or uncle.

(3) "Unit of service" means a fixed amount by which a whole service shall be measured and recorded for payment.

Section 2. Reimbursement. (1) The department shall reimburse a participating provider for a service pursuant to 907 KAR 1:070 the lessor of the:

(a) Provider's usual and customary charge; or

(b) Medicaid fixed upper payment rate per unit of service in accordance with Section 3 of this administrative regulation.

(2) The department shall not reimburse a provider for the cost of a service:

(a) That is not listed in an eligible individual's approved plan of care;

(b) Provided prior to approval of an eligible individual's plan of care; or

(c) Provided by a family member.

Section 3. Medicaid Fixed Upper Payment Rate. (1) The following rates shall be the fixed upper payment rates for each unit of service pursuant to 907 KAR 1:070, Section 3.

Homecare Waiver Services	Medicaid Fixed Upper Payment Rate	Unit of Service	Maximum Units of Service Per Calendar Year
Case Management	\$9.00	15 minutes	None
Homemaker	\$9.50	30 minutes	None
Personal Care	\$9.75	30 minutes	None
Environmental Accessibility Adaptations	\$1,000	None	None, not to exceed \$1,000

(2) The Medicaid fixed upper payment rates shall be increased for inflation by the department on October 1 of each year using the most recent quarterly Standard and Poor's DRI Medical Index available as of the September 1 immediately prior to the rate effective date.

Section 4. Auditing and Reporting. (1) A participating provider shall maintain fiscal and service records of services provided for a period of at least five (5) years from the date that a covered service is provided;

(2) A participating provider shall upon request provide or make available information, regarding service and financial records, to:

- (a) The department;
- (b) The United States Department for Health and Human Services, or its designee;
- (c) The United States General Accounting Office, or its designee;
- (d) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts, or its designee;
- (e) The Commonwealth of Kentucky, Office of the Attorney General, or its designee.

Section 5. Appeal Rights. A Homecare Waiver Services provider may appeal a negative action by the department pursuant to 907 KAR 1:671.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: February 23, 2000

FILED WITH LRC: March 9, 2000 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Selina Riley, 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: Providers of case management, homemaker services, personal care services and environmental accessibility adaptation services may be affected. However, since this is a new program the number of entities that will provide services is unknown at this time. It is expected that 900 unduplicated recipients will be served in the first year of this 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: No comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments were received.

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

1. First year following implementation: As these services are currently being funded through other sources, the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this administrative regulation will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$2,834,050

2. Continuing costs for second year: \$3,206,935; for third year: \$3,631,931

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administered by the Office of Aging Services through an inter-agency agreement with the Department for Medicaid Services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

(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 70.55% equaling \$1,999,422 and state matching funds of 29.45% equaling \$834,628 will be expended. State revenues will come from the Office of Aging Services, Cabinet for Health Services, 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: To be implemented statewide. No comments received.

(b) Kentucky: No comments received.

(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: Will ensure the availability of homecare services for individuals who are aged and disabled, 60 years or older and continue to reside in the community.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if homecare services are unavailable.

(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 impli-

cated as well as Sections 2 and 3 of the Kentucky Constitution.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Long Term Care
(New Administrative Regulation)

907 KAR 1:090. Personal Care Assistance Waiver Services.

RELATES TO: 42 CFR 441 Subparts B, G, 42 USC 1396a, b, d,

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet 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 provisions of Personal Care Assistance Waiver Services.

Section 1. Definitions. (1) "Applicant" means an individual who is applying for personal care assistance waiver services.

(2) "Business agent" means an entity nominated by an eligible individual to receive Medicaid payment to:

- (a) Disburse to a personal care assistant; and
- (b) Perform payroll functions.

(3) "Case management" means:

- (a) Services that oversee the application, assessment, and re-assessment of individuals for waiver services; and
- (b) A system under which responsibility for locating, coordinating and monitoring a group of services rests with a designated person.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Eligible Individual" means a person who has applied for medical assistance and has been determined to have met all applicable conditions for eligibility, pertaining to:

- (a) Kentucky's Medicaid Program; and
- (b) Personal Care Assistance Waiver Services.

(6) "Personal care assistance services" means the assistance by one (1) or more persons to an individual with a physical disability with tasks that the disabled individual would typically do for himself in the absence of a disability.

(7) "Personal care program coordination services" means an array of services that assist an eligible individual to become an effective employer of the personal care attendant.

(8) "Participating" means a provider of medical services taking part in the Medicaid Program by agreeing to comply with program administrative regulations and providing services to eligible recipients.

(9) "PRO" means a peer review organization which is under contract with the department.

(10) "Provider" means an entity pursuant to KRS 205.8451(7).

(11) "Staff person" means an employee or volunteer of a provider or agency who provides the direct delivery of services to an eligible individual.

Section 2. Individual Eligibility Determination and Redetermination. (1) An individual aged eighteen (18) or over with permanent or temporary recurring functional loss of two (2) or more limbs, shall be eligible to participate in Personal Care Assistance Waiver Services if he meets the:

(a) Nursing facility (NF) level of care requirements pursuant to 907 KAR 1:022; and

(b) Technical and financial eligibility criteria of Kentucky's Medicaid Program.

(2) An individual shall not be eligible to participate in Personal Care Assistance Waiver Services if he:

- (a) Is an inpatient of:
 - 1. A hospital;
 - 2. A nursing facility; or
 - 3. An intermediate care facility for an individual with mental re-

tardation or developmental disabilities;

(b) Is a recipient of services in another Medicaid waiver program; or

(c) Requires fewer than fourteen (14) hours of personal care assistance services per week.

(3) Redetermination of eligibility factors pursuant to subsection (1) of this section shall occur at:

(a) Twelve (12) month intervals; or

(b) More frequently if an individual's condition or needs change; or

(c) When an individual reapplies for the Personal Care Assistance Waiver Services Program pursuant to Section 3(3)(a) or (c) of this administrative regulation.

Section 3. Services Provided to Eligible Individuals. (1) Pursuant to subsection (2) of this section, Personal Care Assistance Waiver Services shall include:

- (a) Case management;
- (b) Personal care assistance; and
- (c) Personal care program coordination.

(2) A service pursuant to subsection (1) of this section shall be covered if:

(a) Pursuant to Section 5(2)(h)4 of this administrative regulation, it is entered on form DSS 891-1,2 "Plan of Care", and approved by the department;

(b) The service is prior authorized by the department using form MAP 9 (Rev. 01/2000) "Commonwealth of Kentucky Cabinet for Health Services Kentucky Medicaid Program Prior Authorization for Health Services"; and

(c) It is managed and coordinated by a provider.

(3) A service pursuant to subsection (1) of this section shall be:

(a) Terminated if an individual leaves the Personal Care Assistance Waiver Services Program;

(b) Suspended if an individual receives a temporary discharge from the Personal Care Assistance Waiver Services Program pursuant to Section 2(2)(a) of this administrative regulation for not more than sixty (60) consecutive days; or

(c) Resumed if an individual, pursuant to paragraph (b) of this subsection returns to the Personal Care Assistance Waiver Services Program within sixty (60) days.

Section 4. Exclusions for Provider Participation. A provider of case management shall not be an eligible provider of a:

- (1) Personal care assistance service; or
- (2) Personal care program coordination service.

Section 5. Provider Responsibilities. (1) A provider of personal care assistance services shall:

(a) Assure that each staff person shall:

- 1. Be age eighteen (18) or older; and
- 2. Demonstrate an ability to:

- a. Read;
- b. Write;
- c. Understand instructions;
- d. Carry out instructions;
- e. Record messages;
- f. Keep simple records; and
- g. Maintain client confidentiality;

3. Not have been convicted of a felony as evidenced by a valid criminal records investigation report obtained from the Kentucky Department of Justice and maintained in the staff person's personnel file;

4. Provide a current tuberculosis skin test with a copy of the test results filed in the staff person's personnel file;

5. Not serve clients if the staff person has contracted an infectious disease of any nature until his condition is determined not to be contagious as supported by a physician's statement submitted to the provider by the staff person;

(b) Be:

- 1. Employed and supervised by the eligible individual; and
- 2. Monitored by a personal care program coordinator service provider pursuant to subsection (3) of this section;

(c) Provide services pursuant to subsection (2)(h)4 of this sec-

tion and to the instructions of each eligible individual;

(d) Report to work timely;

(e) Notify an eligible individual at least (6) six hours in advance if unable to report for work;

(f) Obtain and, as necessary, use emergency phone numbers and notify a program coordinator or case manager of conditions pursuant to the serious threat to the health, welfare, and safety of an eligible individual;

(g) Record daily:

1. The number of hours worked;

2. The services rendered to an eligible individual;

(h) Attend:

1. Training related to specific care needs of an eligible individual;

2. Staff meetings with:

a. An eligible individual;

b. A program coordinator; and

c. A case manager; to

(i) Monitor; and

(ii) Coordinate services to an eligible individual.

(2) A provider of case-management services shall comply with subsection (1)(a)3 through 5 of this section and shall:

(a) Provide services throughout the geographic area covered under its plan;

(b) Treat an eligible individual in a respectful and dignified manner;

(c) Involve an eligible individual and caregiver in the delivery of services;

(d) Provide services in a safe manner;

(e) Maintain client confidentiality;

(f) Permit staff persons of the department to monitor and evaluate services provided;

(g) Maintain written:

1. Job descriptions for each position;

2. Qualifications of staff;

3. Training standards;

4. Personnel policies; and

5. Wage scales for each job category;

(h) Assure that:

1. Each office is:

a. Staffed to operate at least thirty-seven and one-half (37.5) hours per week during normal working hours; and

b. Accessible to persons who are disabled;

2. Each case manager and case-management supervisor shall meet:

a. Qualification;

b. Certification; and

c. Training requirements;

3. Uniform procedures for verification of applicant eligibility and case management are used; and

4. An eligible individual served by the provider shall receive services pursuant to a care plan developed cooperatively with a case-management team, pursuant to paragraph (m) of this subsection and recorded on form DSS 891-1,2 "Plan of Care", and the plan shall:

a. Relate to the assessed condition;

b. Identify the:

(i) Goals to be achieved;

(ii) Scope, duration and units of service; and

(iii) Source of services;

c. Incorporate a reassessment plan;

d. Be signed by the eligible individual and case-management team;

(i) Describe:

1. Its methods for referring an eligible individual to other appropriate programs and services;

2. Its program monitoring procedures; and

3. Its case-management plan, including:

a. Implementation;

b. Short-term goals; and

c. Long-term goals;

4. The manner in which services shall be delivered to an eligible individual including the units of service;

(j) Provide the following information regarding its organizational structure:

1. A description of its legal identity, documented by the following items:

a. Articles of incorporation;

b. Mission statement;

c. Bylaws; and

d. Intergovernmental agreements (if applicable);

2. Its governing board membership;

3. An organizational chart;

4. A description of its case-management staffing plan accompanied by:

a. Current staff member's resumes; and

b. The number of full-time equivalent's (FTE's) for each position type;

5. A description of its telephone system including an explanation of how it will provide message and referral services during:

a. Off hours; and

b. Weekends;

6. Its procedures which govern financial responsibility;

7. Financial statements and an independent audit for the previous year;

8. The provider's experience in working with adults that have functional impairments and disabilities;

9. The provider's plan to provide monitoring of:

a. Services; and

b. Quality of care provided to eligible individuals;

10. Documentation that interagency agreements with provider organizations within the geographic service area are signed and in place;

(k) Collect and report to the department, quarterly:

1. Summary data; and

2. Client-specific data;

(l) Comply with the appeal process pursuant to:

1. 907 KAR 1:560;

2. 907 KAR 1:563; and

3. 907 KAR 1:671;

(m) Perform an assessment of an individual:

1. At the initial contact with a case manager; and

2. Every twelve (12) months thereafter;

3. More frequently if an individual's condition or needs change;

or

4. When an individual requests readmission to the Personal Care Assistance Waiver Program;

5. Using the following forms:

a. DSS 891-1,2;

b. MAP 350 "Long Term Care Facilities and Home and Community Based Program Certification";

c. "State of Kentucky Aging Services Client Enrollment";

d. MAP 10P "Kentucky Medicaid Program Home and Community Based Services Waiver"; and

e. MAP-24 "Department of Community Based Services" form;

6. By a team consisting of a:

a. Social worker who possesses a:

(i) Bachelor or master's degree in social work, gerontology, psychology, sociology or a related field; or

(ii) Bachelor's degree, in a field other than social work, gerontology, psychology, sociology or related field, and has two years of work experience with elderly or physically disabled individuals; and

b. Registered nurse who possesses a current Kentucky nursing license;

(n) Document in an eligible individual's case record:

a. The services provided pursuant to this administrative regulation; and

b. Each contact with the eligible individual or on his behalf;

(o) Provide bimonthly on-site monitoring by a case-management team member to assure that an eligible individual's needs, as identified in the care plan are met;

(p) Assure that each case manager shall attend training as follows:

1. Fourteen (14) hours of case-management orientation training;

2. Four (4) hours of in-service training, pertinent to the job function, quarterly.

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(3) A provider of personal care program coordination services shall:

- (a) Comply with subsection (1)(a) of this section;
- (b) Employ or contract for a program coordinator who shall have:

1. Two (2) years equal to fifty-four (54) semester hours of college; or

2. Work experience in any of the following areas that shall substitute on a year-for-year basis:

- a. Interviewing;
- b. Community service;
- c. Administrative;
- d. Reviewing;
- e. Monitoring;
- f. Training; or
- g. Eligibility determinations for human services programs;
- (c) Provide the following services to an eligible individual:

1. Training in recordkeeping;
2. Tax responsibility instruction;
3. Supervision of a personal care assistant; and
4. Lists of personal care assistants from which the eligible individual may choose, if requested; and

(d) Provide monthly programmatic reports on personal care assistants upon the department's request.

Section 6. Applicant Level of Care Determination Process. (1) Pursuant to Section 2(1)(a) of this administrative regulation, a case-management team member shall telephone the PRO and provide required applicant information pursuant to Section 5(2)(h)4 of this administrative regulation;

(2) If the PRO determines that an applicant meets nursing facility level of care requirements then the PRO shall:

- (a) Verbally notify a case manager of its determination; and
- (b) Send written confirmation of its determination a case manager;

(3) Upon receipt of the PRO's confirmation notice a case manager shall send the following documentation to the PRO:

- (a) A DSS 891-1,2;
- (b) A MAP 350;
- (c) A MAP 10H;
- (d) A "State of Kentucky Aging Services Client Enrollment" form;
- (e) A confirmation notice stating that the applicant meets nursing facility level of care requirements; and
- (f) MAP-24 if services resume pursuant to Section 3(3)(c) of this administrative regulation;

(4) Upon receipt of the items listed in subsection (3)(a) through (f) of this section, the PRO shall generate a document approving or denying an applicant for each homecare waiver service requested.

(5) The department shall ensure that this document is forwarded to:

- (a) Each personal care assistance waiver service provider; and
- (b) The applicant;
- (6) If the PRO determines that an applicant does not meet nursing facility level of care requirements the PRO shall:
- (a) Verbally notify a case manager of its determination; and
- (b) Send written confirmation of its decision to:
1. A case manager;
2. The Department for Community Based Services; and
3. An applicant, whose notification shall contain appeal right information.

Section 7. Recipient Choice. (1) An eligible individual or his legal representative shall:

- (a) Be given a choice to receive:
1. Home and community based services; or
2. Nursing facility services subject to the limitations established in Section 2 of this administrative regulation; and

(b) Pursuant to paragraph (a)1 and 2 of this subsection, complete, sign, and date form MAP 350; and

(2) An eligible individual or his legal representative shall select participating Personal Care Assistance Waiver Services providers from whom he wishes to receive services.

Section 8. Appeal Rights. (1) An appeal of a negative action

regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560;

(2) An appeal of a negative action regarding NF level of care or a service to a Medicaid beneficiary shall be in accordance with 907 KAR 1:563; and

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) MAP 10-P, Kentucky Medicaid Program Personal Care Assistance Waiver Services, January 2000 Revision;

(b) MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form, January 2000 Revision;

(c) MAP-4100P, Personal Care Assistance Waiver Services, Provider Information and Services, January 2000 Revision;

(d) MAP-9, Commonwealth of Kentucky, Cabinet for Human Resources, Kentucky Medicaid Program, Prior Authorization for Health Services, December 1995 Revision;

(e) DSS 891-1,2, The Plan of Care, July 1996 Revision;

(f) The State of Kentucky, Aging Services Client Enrollment, January 2000 Revision; and

(g) MAP-24, "Department for Community Based Services" form, January, 2000 Revision.

(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. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: February 23, 2000

FILED WITH LRC: March 9, 2000 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Selina Riley, 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: Providers of case management, personal care program coordination and personal care assistance services may be affected. However, since this is a new waiver the number of entities to provide services are unknown at this time. It is expected that 75 unduplicated recipients will be served in the first year of this waiver.

(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: 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: As these services are

currently being funded through other sources the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this administrative regulation will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$985,950

2. Continuing costs or savings for second year: \$1,109,491; for third year: \$1,268,321.

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administrated by the Office of Aging Services through an inter-agency agreement with Medicaid Services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

(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 70.55% equaling \$695,588 and state matching funds of 29.45% equaling \$290,362 will be expended. State revenues will come from the Office of Aging Services, Cabinet for Health Services, 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: To be implemented statewide. No comments received.

(b) Kentucky: No comments received.

(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: Will ensure the availability of personal care assistance waiver services for individuals who are severely physically disabled adults, 18 years of age or over, with permanent or temporary recurring functional loss of 2 or more limbs and continue to reside in the community.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if personal care assistance waiver services are not available.

(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.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Long Term Care
(New Administrative Regulation)**

907 KAR 1:092. Payments for Personal Care Assistance Waiver 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, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet 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 Personal Care Assistance Waiver Services.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Family member" means:

(a) Husband or wife;

(b) Natural or adoptive parent, child or sibling;

(c) Stepparent, stepchild, stepbrother, stepsister;

(d) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,

(e) Sister-in-law;

(f) Grandparent or grandchild;

(g) Spouse of grandparent or grandchild;

(h) Aunt or uncle; or

(i) Spouse of aunt or uncle.

(3) "Unit of service" means a fixed amount by which a whole service is measured and recorded for payment.

Section 2. Reimbursement. (1) The department shall reimburse a participating provider for a service pursuant to 907 KAR 1:090 the lessor of the:

(a) Provider's usual and customary charge; or

(b) Medicaid fixed upper payment rate per unit of service pursuant to Section 3 of this administrative regulation.

(2) The department shall not reimburse a provider for the cost of a service:

(a) That is not listed in the approved plan of care;

(b) Provided prior to approval of the plan of care; or

(c) Provided by a family member.

Section 3. Fixed Upper Payment Limits. (1) The following rates shall be the fixed upper payment rates for each unit of service pursuant to 907 KAR 1:090, Section 3:

Personal Care Assistance Waiver Service	Medicaid Fixed Upper Payment Rate	Unit Of Service	Maximum Units of Service Per Week (Sunday-Saturday)	Minimum Units of Service Per Week
Personal Care Assistance	\$3.08	30 minutes	80	28
Case Management	\$9.00	15 minutes	None	None
Program Coordination	\$12.00	30 minutes	None	None

(2) The Medicaid fixed upper payment rates shall be increased for inflation by the department on October 1 of each year using the most recent quarterly Standard and Poor's DRI Medical Index available as of the September 1 immediately proceeding the rate effective dates.

Section 4. Auditing and Reporting. (1) A participating provider shall maintain fiscal and service records of services provided for a

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period of at least five (5) years from the date that a covered service is provided; and

(2) A participating provider shall upon request provide or make available information regarding service and financial records, to:

(a) The department;

(b) The United States Department for Health and Human Services, or its designee;

(c) The United States General Accounting Office, or its designee;

(d) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts, or its designee;

(e) The Commonwealth of Kentucky, Office of the Attorney General, or its designee.

Section 5. Appeal Rights. A Personal Care Assistance Waiver Service provider may appeal a negative action by the department pursuant to 907 KAR 1:671.

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: February 23, 2000

FILED WITH LRC: March 9, 2000 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Selina Riley, 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: Providers of case management, personal care program coordination and personal care assistance services may be affected. However, since this is a new waiver the number of entities to provide services are unknown at this time. It is expected that 75 unduplicated recipients will be served in the first year of this waiver.

(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: 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: As these services are currently being funded through other sources the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this administrative regulation will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$985,950

2. Continuing costs or savings for second year: \$1,109,491; for

third year: \$1,268,321.

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administrated by the Office of Aging Services through an inter-agency agreement with Medicaid Services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

(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 70.55% equaling \$695,588 and state matching funds of 29.45% equaling \$290,362 will be expended. State revenues will come from the Office of Aging Services, Cabinet for Health Services, 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: To be implemented statewide. No comments received.

(b) Kentucky: No comments received.

(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: Will ensure a reimbursement methodology is available to providers of Personal Care Assistance Waiver Services.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if a viable reimbursement methodology is not available to providers of Personal Care Assistance Waiver Services.

(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.

CABINET FOR HEALTH SERVICES Department For Medicaid Services Division of Member and Provider Services (New Administrative Regulation)

907 KAR 1:999. Repeal of 907 KAR 1:002.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520(3)

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 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 repeals 907 KAR 1:002. 907 KAR 1:002 is unnecessary because the Department for Medicaid Services shall define each term that requires definition in an administrative regulation in the

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actual administrative regulation. In order to comply with KRS 13A.222(4)(e) the Department for Medicaid Services shall repeal the administrative regulation which was promulgated solely to establish Medicaid definitions.

Section 1. 907 KAR 1:002 is hereby repealed.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: February 22, 2000

FILED WITH LRC: March 3, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: 0

(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 public comments were received during the NOI process.

(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 were received during the NOI process.

(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 requirements.

2. Second and subsequent years: No additional requirements.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Budget neutral.

2. Continuing costs or savings: Budget neutral.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional requirements.

(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: Does not require additional funding.

(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 during the NOI process.

(b) Kentucky: No public comments were received during the NOI process.

(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: None

(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 regulation is 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: 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.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Children's Health Programs
(New Administrative Regulation)**

907 KAR 4:030. Kentucky Children's Health Insurance Program Phase III Title XXI of the Social Security Act.

RELATES TO: KRS Chapter 45A, 205.510 through 205.645, 42 USC 1397aa

STATUTORY AUTHORITY: KRS 194A.030, 205.6481 through 205.6497, 42 USC 1397aa

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 205.6485 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 KCHIP eligibility criteria, quality assurance and utilization review, covered services, the approval process, grievance and appeal rights and the requirements for delivery of health services for providers who wish to participate with the Commonwealth to provide health care coverage for KCHIP members through the provision of a separate health insurance program under Title XXI.

Section 1. Definitions. (1) "Cabinet" means the Kentucky Cabinet for Health Services or its designee.

(2) "Child" means an individual under age nineteen (19).

(3) "Creditable coverage" is defined in KRS 304.17A-005(6)(a)1-3 and 5-10.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Excepted benefits" is defined in KRS 304.17A-005.

(6) "Health insurance" is defined in KRS 304.5-040.

(7) "KCHIP" means the Kentucky Children's Health Insurance Program in accordance with 42 USC 1397aa through 42 USC 1397jj.

Section 2. Eligibility Criteria. (1) A child shall be eligible for KCHIP if the child:

(a) Is a resident of Kentucky meeting the conditions for determining state residency under 42 CFR 435.403;

(b) Is an alien who meets the requirements established in 907 KAR 1:011(5)(12)(a).

(c) Is not an inmate of a public institution or a patient in an institution for mental disorders;

(d) Is not eligible for Medicaid pursuant to 907 KAR 1:011; and

(e) Is a targeted low-income child as defined in 42 USC 1397jj(b) who:

1. Has family income which does not exceed 200 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);

2. Does not have creditable coverage and may be covered by excepted benefits;

3. Did not have creditable coverage within six (6) months prior to applying for KCHIP, unless the coverage was terminated for other than voluntary reasons or the coverage was Medicaid;

4. Provides to the department the information required in Section 4(4) of this administrative regulation;

5. Meets the continuing eligibility requirements established in 907 KAR 1:605, Section 3; and

6. Meets the relative responsibility requirements of 907 KAR 1:660.

(2) 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 a child is eligible for benefits pursuant to 42 USC 1396 or 1397bb.

Section 3. Covered Services. (1) Health services shall be considered as medically necessary if services are:

(a) Reasonable and necessary to diagnose and provide preventive, palliative, curative, or restorative treatment for physical or mental conditions;

(b) In accordance with professionally recognized standards of health care generally accepted at the time services are provided; and

(c) In accordance with 42 CFR 440.230.

(2) Covered services shall exclude:

(a) EPSDT special services as defined in 907 KAR 1:034, Section 7;

(b) Human service transportation delivery as defined in 603 KAR 7:080; and

(c) Locally authorized medical transportation as defined in 907 KAR 1:060, Section 4.

(3) The amount and duration of benefits covered by KCHIP shall be as established in 907 KAR Chapters 1 and 3 excluding the services identified in subsection (2) of this section.

(4) 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.

(5) Preventive and remedial public health services shall be provided to KCHIP members in accordance with 907 KAR 1:360.

(6) KCHIP shall be the payor of last resort.

Section 4. KCHIP Approval Process. The following information shall be required from a child or responsible party for KCHIP enrollment:

(1) A child's demographics, which shall include name, address, sex, date of birth, race, and Social Security number;

(2) Monthly gross earned income, if any, of a parent and a child for whom information is being submitted, an employer type and address, if any, and frequency of income;

(3) The name and address of a health insurance provider who currently provides creditable coverage; or who provided creditable coverage during the six (6) months prior to the date the information in this section is submitted to the department;

(4) The creditable coverage policy number, policy holder's name, Social Security number and individuals covered by the plan;

(5) Unearned income, if any, received weekly, biweekly, bi-monthly, quarterly, or annually;

(6) The name and age of a child or disabled adult for whom care is purchased in order for a parent or responsible person to work; and

(7) The signature, date, and telephone number of the person submitting the information for a 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, and 907 KAR 1:320.

Section 6. Complaint, Grievance and Appeal Rights. (1) If dissatisfied 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 or 907 KAR 1:563.

(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 907 KAR 1:563.

(3) A KCHIP-eligible child or a responsible party shall be informed, in writing, of his rights to and procedures for due process by the cabinet:

(a) At the time information to obtain KCHIP approval is submitted;

(b) If there is a change in eligibility status;

(c) 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.

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: February 22, 2000

FILED WITH LRC: March 3, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Selina Riley, 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon Rodriguez or Karen Doyle

(1) Type and number of entities affected: Uninsured children through age 18 with family income between 151% to 200% of the federal poverty level; health insurers; 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: No public comments were received during the Notice of Intent process.

(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 were received during the Notice of Intent process.

(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 de-

partment 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: No public comment was received.

(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 with family income between 151%-200% 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 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:

(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.

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

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 151%-200% 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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of March 6, 2000

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 6, 2000 at 2 p.m. in Room 149 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the February 8, 2000 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Marshall Long, Richard Roeding, and Joey Pendleton; Representatives Woody Allen and Jimmie Lee.

LRC Staff: Dave Nicholas, Donna Little, Stephen Lynn, Susan Wunderlich, Angela Phillips, Ellen Benzing.

Guests: David Terry, Wilbur Frye, University of Kentucky; Susan Blake, John Patterson, Office of Attorney General; Michael A. Mone', Board of Pharmacy; Larry Perkins, Board of Professional Engineers and Land Surveyors; Mark Mangeot, Natural Resources and Environmental Protection Cabinet; Keith Horn, Department of Juvenile Justice; Tamela Biggs, Brenda Priestley, Department of Corrections; Charlie Harman, Transportation Cabinet; Vera Frazer, Chuck McGuire, Martha B. Graves, Gina Oney, Ruthanne Boyles, Fran Hawkins, Marvin Miller, James Carreer, Stuart Owen, Carol Stange, Alex Reese, Connie Barker, Karen Doyle, Mike Townsend, Kelly Ranvier, Trish Howard, Marion Guarneri, Mike Littlefield, Cabinet for Health Services; Rosanne Barkley, Stephanie Brammer-Barnes, Virginia K. Smith, Cliff Jennings, Cabinet for Families and Children; Moriah Lloyd, Tony Gietzl, Theodore M. Godlaski, University of Kentucky; Joseph Barkley; Scott Criscillis; Pat Hicks, Kentucky Grocers Association; Bill Criscillis; Tommy Beckley, Bonnie Anglin, Jessica Anglin, Am Bell, Child Laws and Social Awareness; Oliver Barber, Fox Hollow; Wade Helm, Kentucky Conservatives Committee; Rebeckah Freeman, Kentucky Farm Bureau; Carl Breeding, AIK; Bob Barnett, Kentucky Pharmacists Association.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Office of Attorney General: Child Sexual Abuse and Exploitation Prevention Board: Victims Advocacy Division: Kentucky Victim and Witness Protection Program

40 KAR 6:020 & E. Funding assistance for child sexual abuse medical examinations. Susan Blake, Director, Victims Advocacy Division, and John Patterson, Victims Advocacy Division, represented the Board. Tommy Beckley, Bonnie Anglin, and Jessica Anglin, Child Laws and Social Awareness, spoke in opposition to this administrative regulation.

Subcommittee staff stated that: (1) this administrative regulation, as amended, was deferred from the Subcommittee's February 8, 2000 Meeting, to allow time to refer the issues raised by certain terms (believed, suspected, and victims) used in the authorizing statutes to the appropriate committee for action during the 2000 Regular Session; (2) the agency had proposed an amendment to: (a) delete those terms from this administrative regulation; and (b) comply with the statutory requirements.

Mr. Beckley stated that his organization: (1) did not agree with the suggested amendment; (2) believed the amendment: (a) made the problem worse; (b) merely changed the wording to delete the objectionable language; and (c) did not change the intent of either the statute or this administrative regulation; (3) wanted the applicable statutes amended to correct the problems; (4) was working with some senators to amend the applicable statutes; and (5) did not believe funding should be applied until the statutory problems were resolved.

Ms. Blake stated that: (1) the sole issue before the Subcommittee was the approval of this administrative regulation, which authorized payment for medical examinations for alleged victims of child abuse; (2) the statute allowed the payment for medical examinations; and (3) this administrative regulation complied with the statutory requirements.

Chairman Arnold stated that: (1) Mr. Beckley's concerns: (a)

involved the applicable statutes; and (b) did not involve this administrative regulation; (2) this administrative regulation was necessary to permit the Division to comply with statutory requirements; (3) Mr. Beckley should lobby the General Assembly for an amendment to the applicable statutes; and (4) if the statutes were amended, the agency would be required to amend this administrative regulation to comply with the new statutory changes.

Subcommittee staff stated that: (1) the Division was required to promulgate this administrative regulation; and (2) this administrative regulation complied with applicable statutory authority.

In response to questions by Senator Pendleton, Mr. Beckley stated that: (1) his organization had: (a) talked with several senators regarding an amendment to the law; (b) attempted to reach Senator Pendleton; (c) contacted a circuit court judge regarding a court challenge to the law; and (d) been informed that: 1. it was too late to introduce new bills in the 2000 Regular Session; and 2. the earliest date his proposal could be considered would be in 2002; (2) violations of the law were occurring; and (3) people who approved funding for these violations were participants in the violations and abuse.

Senator Pendleton stated that: (1) the Division was required by current statutory law to promulgate this administrative regulation; (2) a law could be changed only through the legislative process after the drafting of a bill; and (3) because a bill had not been filed before the established deadline for the 2000 Regular Session, the statute could not be amended until the 2002 Regular Session.

Ms. Blake stated that: (1) the medical examinations program was funded by donations that exceeded the cost of a license plate; and (2) the program was not funded by general fund dollars.

In response to questions by Representative Lee, Mr. Beckley stated that: (1) he understood that, if the Subcommittee approved a motion to find this administrative regulation deficient this administrative regulation would: (a) still become effective; and (b) not have Subcommittee approval; (2) the members were elected to represent the citizens, who wanted to know how the members responded to issues; and (3) Jessica Anglin could testify regarding their opposition to the funding mechanism based on her experiences with the Department for Social Services.

Representative Lee stated that Mr. Beckley should have presented this issue to the General Assembly during the interim period to allow legislation to be introduced for the 2000 Regular Session.

In response to a question by Representative Lee, Mr. Beckley stated that: (1) his organization: (a) did not realize the results of the applicable statutes until recently; and (b) was a new organization in Kentucky; and (2) the statutes presented major problems that people did not want to address because of the influence of the Department of Social Services.

Ms. Anglin stated that: (1) the bottom line was protection of the children; (2) as a mother and former engineer, not an attorney, she and Jessica Anglin were concerned about the children from abusers and those who allegedly protect children; and (3) because the applicable statutes and funding mechanisms promoted child sexual abuse, this administrative regulation also advanced child sexual abuse.

Ms. Blake stated that: (1) KRS 15.935: (a) statutorily provided for the payments for the examinations; and (b) was determined to be constitutional by the Attorney General; (2) the opinion of the Attorney General stated that the statute: (a) was valid and constitutional; and (b) did not require that someone be convicted of an offense before there could be a victim; (3) this administrative regulation: (a) involved payments for the medical examinations; and (b) did not involve the social services investigatory process or prosecution process.

Chairman Arnold stated that: (1) while he understood the issue raised by Mr. Beckley and Ms. Anglin, the Subcommittee did not have the authority to prevent the statutory provisions from taking effect; (2) a statute could be amended only through action of the General Assembly; (3) if the statutes were amended, the agency would be required to amend this administrative regulation to comply

with the new statutory changes; and (4) the funding would continue under existing law, even if this administrative regulation were found deficient.

Representative Allen stated that: (1) because of the amount of time required to pass legislation, Mr. Beckley's organization should work during the interim to locate a sponsor for legislation during the 2002 Regular Session; (2) most of the bills that have been considered by the General Assembly had been worked on for two (2) years; and (3) while he was sorry to say that it took such a long period of time, the legislative process was time-consuming.

Ms. Anglin stated that: (1) while she realized the way government normally worked, she had hoped that this emergency situation could still be addressed; and (2) protection of the children should be a top priority for everyone.

Jessica Anglin stated that: (1) during her examination, she: (a) had cameras looking at her; and (b) was given blankets to prevent her from telling others what occurred; and (2) the examination: (a) was not nice; and (b) should not be done to other people.

Rep. Allen stated that: (1) while he understood the problem, the Subcommittee was sworn to: (a) uphold the Constitution; and (b) follow the laws of Kentucky; and (2) if members of the General Assembly did not follow the law and set an example, nobody would follow the law.

In response to a question by Ms. Anglin, Subcommittee staff stated that: (1) under Kentucky law, there was a presumption that legislation enacted by the General Assembly was legal and constitutional until successfully challenged; (2) while it appeared that the Subcommittee sympathized with their concerns, the Subcommittee was restricted in its available options; and (3) until the General Assembly amended the law, the law would remain in effect until an appellate court determined the law unconstitutional based on a court challenge.

Mr. Beckley stated that while this administrative regulation would still go into effect, he wanted this administrative regulation to become effective without the approval of the Subcommittee.

Ms. Blake stated that the Subcommittee should approve this administrative regulation because: (1) the statute was: (a) in effect; and (b) presumed to be valid; and (2) this administrative regulation followed the requirements of the statute regarding payment of medical examinations.

Chairman Arnold stated that: (1) the Subcommittee was required to follow the statutes; (2) he would be willing to help change the law; (3) while he did not like what happened to Jessica Anglin, two options existed: (a) a court case could be filed to challenge the law; or (b) the next eighteen months could be used to prepare legislation for the 2002 Regular Session.

Subcommittee staff stated that: (1) the Subcommittee did not have the authority to disobey the Kentucky statutes; (2) the duties of the Subcommittee to approve administrative regulations was secondary to the statutes; and (3) the statutes clearly authorized this administrative regulation.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to delete the terms "victim" and "suspected"; and (2) Section 4(1) was amended to delete the term "believed".

Board of Pharmacy

201 KAR 2:030. License transfer. Michael A. Moné, Executive Director, represented the Board.

This administrative regulation was amended as follows: (1) Section 1 was amended to alphabetize the definitions; and (2) Section 2 was amended to comply with the drafting requirements of KRS 13A.222(4).

Board of Registration for Professional Engineers and Land Surveyors

201 KAR 18:040. Fees. Larry S. Perkins, Executive Director, represented the Board.

In response to questions by Senator Roeding, Mr. Perkins stated that: (1) in the previous fiscal year, the Board did not return any money to the general fund; (2) the Board's budget rolled over from one year to the next; (3) the board was approximately \$40,000 under budget; (4) the new fees established in this administrative regulation: (a) would raise about \$250,000; and (b) were needed

because the board was not receiving as much money as was being spent; (5) even though the board had not raised fees in eight years, its expenses had increased each year without an increase in income; (6) because the board renewed licenses in May and June, the ending balance varied depending on the date the renewal notices were distributed; (7) in 1998, the board had: (a) revenue of \$851,000; and (b) expenditures of \$905,000; (8) in 1997, the board had: (a) revenue of \$753,000; and (b) expenditures of \$901,000; (9) over the last four (4) years, the board had total: (a) revenue of \$3,340,000; and (b) expenditures of \$3,500,000; (10) the examination fees paid by the board had increased; and (11) the Governor's Office of Policy and Management had advised the board to restructure its fee system because the board was spending more than its income.

In response to questions by Representative Lee, Mr. Perkins stated that over the last five months, the Board: (1) conducted a study to determine an equitable fee schedule for its licensees; (2) increased four fees because the examination costs charged to the Board had increased; (3) decreased three fees because the study showed the decrease was affordable; (4) increased from \$45 to \$75 the annual renewal fee, which was collected biannually; and (5) projected that this fee schedule would be effective for four (4) years.

Representative Lee stated that: (1) he was not questioning the need for the fee increases but the length of time between the increases; and (2) a business would: (a) not wait ten (10) years to make changes needed to meet its rising costs; and (b) adjust its prices on a regular basis.

In response to questions by Senator Roeding, Mr. Perkins stated that: (1) the board's reciprocity fee was the same as, or lower than, the fee amount charged by surrounding states; and (2) Texas charged a \$600 fee.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to correct statutory citations; and (2) Section 2(3) was amended to correct statutory citations.

The Subcommittee approved this administrative regulation as amended, with Senator Roeding voting against approval.

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:130. Western Kentucky Correctional Complex. Tamela Biggs, Staff Attorney, represented the Cabinet. WKCC 01-08-01 was amended to comply with the drafting requirements of KRS 13A.222(4).

501 KAR 6:170. Green River Correctional Complex. This administrative regulation was amended to comply with the drafting requirements of KRS 13A.222(4).

501 KAR 6:999. Corrections secured policies and procedures. Pursuant to KRS 61.815(2) and KRS 61.810(1)(i) and (k), and KRS 197.025(5), the Subcommittee went into closed session to review 501 KAR 6:999, Secured policies and procedures.

Cabinet for Health Services: Department for Medicaid Services: Division of Adult and Child Health: Maternal and Child Health

902 KAR 4:040 & E. Special Supplemental Nutrition Program for Women, Infants and Children (WIC). James Carreer, Commissioner's Office, Ruthann Boyles, and Fran Hawkins, represented the Department.

In response to a question by Senator Roeding, Ms. Hawkins stated that: (1) this administrative regulation did not require the department to obtain a quote from milk suppliers for the WIC program; (2) the federal regulation established the requirement; and (3) Kentucky had one of the lowest rebates in the nation, which was checked one month ago.

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 and Sections 1 and 3 through 17 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (3) Section 1 was amended to: (a) cross-reference applicable statutory definitions; and (b) add needed definitions; (4) Section 2, which established the purpose of this administrative regulation, was de-

leted because those provisions were included in the NECESSITY, FUNCTION, AND CONFORMITY paragraph; (5) Section 11 was amended to prohibit the WIC program from authorizing a store that had attempted to circumvent a period of disqualification from the program; and (6) Section 13 was amended to revise the penalty provisions to comply with applicable federal and state law.

Department for Medicaid Services: Medicaid Services

907 KAR 1:155 & E. Payments for supports for community living services for individuals with mental retardation or developmental disabilities. Karen Doyle, Commissioner's Office, and Vera Frazer represented the Department.

In response to questions by Senator Roeding, Ms. Frazer stated that: (1) the amendment corrected a typographical error in Section 9 to increase the applicable payment rates by three and one-half percent, rather than three-percent; and (2) Section 9 did not apply until July 2000.

Subcommittee staff stated that: (1) the payment rates were established in: (a) Section 8 for the current fiscal year; and (b) Section 9 for fiscal year 2000; and (2) the rate was supposed to be the same amount for each fiscal year.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 4, 5, 6, 8, 9, and 10 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (3) Section 1 was amended to define "annualized upper limit"; (4) Sections 1 and 3 were amended to require submission of the financial information listing with the cost report; (5) Section 3 was amended to cross-reference applicable administrative regulations; (6) Sections 3, 8, and 9 were amended to correct applicable dates; (7) Section 8 was amended to establish requirements for arraying payment rates to determine the median rate for each service; (8) Section 9 was amended to increase applicable payment rates by three and one-half percent, rather than three percent; (9) a new section was created to establish requirements for compliance with the federal imposed minimum wage increase; and (10) Section 10 was amended to incorporate by reference required forms.

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

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs. Mike Townsend, Director, Marion Guarnieri, and Carol Stange represented the Department.

In response to questions by Senator Roeding, Mr. Townsend stated that: (1) a defendant paid the fees for service delivery, which were based on the defendant's ability to pay for the treatment and education program; (2) he did not know the graduation percentage; (3) if a defendant did not graduate from a program, the defendant: (a) was remanded to court; and (b) could not receive his driver's license until the defendant had successfully completed an education or treatment program; and (4) the treatment program for: (a) a second offender was one year; and (b) a first offender was ninety (90) days of either education or treatment..

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 through 10 were amended to: (a) conform to the applicable requirements established in 908 KAR 1:370; and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); (4) Section 1 was amended to: (a) cross-reference applicable statutory definitions; (b) alphabetize definitions; and (c) conform to the definitions established in 908 KAR 1:370; (5) Section 3 was amended to: (a) specify the name of the required application forms; and (b) establish the requirements for certification as a clinical services supervisor, including grandfathering provisions for current clinical services supervisors; (6) Section 4 was amended to establish the requirements for certification and renewal as an assessor or instructor, including grandfathering provisions for current assessors or instructors; (7) Section 5 was amended to require the

division to give two weeks written notice prior to the date of an announced program review; (8) Section 6 was amended to: (a) specify the applicable requirements during the six month transitional period; and (b) establish requirements governing out-of-state programs; (9) Section 7 was amended to: (a) specify the applicable requirements during the six month transitional period; and (b) establish applicable delivery standards, including: 1. a limit of three hours per day and three times per week; and 2. the required sequence of courses for first offenders and for multiple offenders; and (10) Section 10 was amended to update the material incorporated by reference to conform to the amendments made to this administrative regulation.

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. This administrative regulation was amended as follows: (1) the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to correct statutory citations; and (2) Section 1 was amended to include the titles of the administrative regulations being repealed.

908 KAR 1:370. Licensing procedures and standards for persons and agencies operating alcohol and other drug abuse treatment programs. In response to questions by Chairman Arnold, Mr. Townsend stated that: (1) this administrative regulation governed the licensing of outpatient or residential treatment programs that were offered outside of a hospital setting for chemical dependency; (2) some programs, including the network of community mental health centers, were funded through the Cabinet for Health Services and its affiliated agencies; and (3) a private practitioner who wanted to provide treatment for substance abuse was required to be licensed under this administrative regulation.

This administrative regulation was amended as follows: (1) the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY 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 through 17 were amended to: (a) conform to the applicable requirements established in 908 KAR 1:310; (b) delete provisions applicable to halfway houses; and (c) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); (4) Section 1 was amended to: (a) cross-reference applicable statutory definitions; (b) alphabetize definitions; (c) delete superfluous definitions for terms not used in this administrative regulation; and (d) conform to the definitions established in 908 KAR 1:310; (5) Section 2 was amended to: (a) establish the licensing requirements for an alcohol and other drug abuse treatment entity (AODE); and (b) specify the name of the required forms; (6) Section 3 was amended to conform to the administrative hearing requirements established in KRS Chapter 13B; (7) Section 4 was amended to establish to requirements for the physical plant, including state fire marshal approval; (8) Sections 5 and 7 were amended to delete requirements that are no longer applicable relating to personnel policies; (9) Section 7 was amended to require a system to effectively respond to problems associated with domestic violence among clients served in the AODE; (10) Section 8 was amended to establish the requirements for certification as a clinical services supervisor or clinician, including grandfathering provisions for current clinical services supervisors; (11) Sections 13 and 14 were amended to establish the requirements for a residential transitional living program; and (12) a new Section 16 was created to incorporate by reference the required forms.

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: Child Welfare

922 KAR 1:100. Agency adoptions. Cliff Jennings represented the Department.

In response to questions by Senator Roeding, Mr. Jennings stated that: (1) this administrative regulation: (a) established procedures for the adoption of children committed to the Cabinet for Families and Children when the child's parents had their parental

rights terminated; and (b) conformed to the Adoption and Safe Families Act; and (2) the agency adoption process was: (a) included in the training and instructional material for agency staff; and (b) available on the Internet.

In response to a question by Chairman Arnold, Mr. Jennings stated that this administrative regulation: (1) clearly established the process and procedures for adoptions to occur after the parental rights had been terminated; and (2) applied to those children whose rights had been terminated through a court.

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); and (2) the requirements for an "adoptive home study" were deleted from Section 1, the definition section, and inserted in Section 6.

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Agricultural Experiment Station: University of Kentucky: Division of Regulatory Services: Fertilizer

12 KAR 4:170. Maximum chlorine guarantee for tobacco fertilizers. Dr. Wilbur Frye, Director, Regulatory Services, and Dr. David Terry, Coordinator, Fertilizer Regulatory Program, represented the University.

Justice Cabinet: Department of Juvenile Justice: Juvenile Detention Facilities

500 KAR 6:011. Repeal of 500 KAR 6:010, 6:020, 6:030, 6:040, 6:050, 6:060, 6:070, 6:080, 6:090, 6:100, 6:110, 6:120, 6:130, 6:140, 6:150, 6:160, 6:170, 6:180, 6:190, 6:200, 6:210, and 6:220, juvenile detention facilities. Keith Horn, Attorney, represented the Department.

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the March 6, 2000 meeting of the Subcommittee:

Personnel Cabinet: Classified

101 KAR 2:102E. Classified leave administrative regulations.

Unclassified

101 KAR 3:015E. Leave administrative regulations for the unclassified service.

Finance and Administration Cabinet: Commercial Mobile Radio Service Emergency Telecommunications Board

- 202 KAR 6:010E. Definitions for 202 KAR Chapter 6.
- 202 KAR 6:020E. CMRS carrier cost recovery.
- 202 KAR 6:030E. Confidential and proprietary information.
- 202 KAR 6:040E. Dispute resolution.
- 202 KAR 6:050E. PSAP certification.
- 202 KAR 6:060E. PSAP Pro Rata Fund disbursement.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game

- 301 KAR 2:222E. Waterfowl hunting requirements.
- 301 KAR 2:226E. Youth waterfowl hunting season.

Justice Cabinet: Department of Corrections: Jail Standards for Full-Service Facilities

Tamela Biggs, Staff Attorney, represented the Department.

In response to a question by Senator Roeding, Ms. Biggs stated that: (1) the statute required the Department to promulgate these administrative regulations relating to jails upon the recommendations of the Jail Standards Commission and the fiscal courts; (2) the Department was: (a) not authorized to agree to the amendments; and (b) required to take the suggested amendments back to the Jail Standards Commission for approval; and (3) the Jail Standards Commission was composed of jailers.

Subcommittee staff stated that: (1) the Jail Standards Commission was scheduled to meet on March 16, 2000, to approve the amendments recommended by Subcommittee staff to bring these administrative regulations into compliance with applicable statutory

and case law; and (2) because agency approval would not be obtained until its meeting next week, Subcommittee staff had asked the Subcommittee to request deferral of these administrative regulations to avoid the effect of KRS 13A.333(4), which provided that if deferral of an administrative regulation at the request of an administrative body would result in its adoption after adjournment of a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.

Ms. Biggs stated that the Department would agree to a request by the Subcommittee to defer consideration of these administrative regulations.

The Subcommittee approved a motion by Senator Roeding, seconded by Senator Pendleton, to defer consideration of these administrative regulations (501 KAR 3:010 through 501 KAR 10:140).

- 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.

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 Juvenile Justice: Child Welfare

- 505 KAR 1:090E. Supervised placement revocation.

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:018. Special overweight or overdimensional permits. Charlie Harman represented the Department.

Mr. Harman stated that the Department: (1) had promulgated an administrative regulation to repeal existing administrative regulations that involved the same subject matter as this administrative regulation; and (2) would agree to a request by the Subcommittee to defer consideration of this administrative regulation.

The Subcommittee approved a motion by Representative Lee, seconded by Senator Pendleton, to defer consideration of this administrative regulation.

Cabinet For Health Services: Department for Medicaid Services

- 907 KAR 1:013E. Payments for hospital inpatient services.
- 907 KAR 1:023. Review and approval of selected therapies as ancillary services in nursing facilities. Karen Doyle, Commissioner's Office, represented the Department.

Subcommittee staff stated that the Department for Medicaid Services: (1) was notified by a provider on Friday regarding an issue relating to this administrative regulation; and (2) needed additional time to meet with the provider and appropriate medical experts to resolve the issue.

Ms. Doyle stated that the Department would agree to a request by the Subcommittee to defer consideration of this administrative regulation.

The Subcommittee approved a motion by Senator Roeding, seconded by Senator Pendleton, to defer consideration of this administrative regulation.

- 907 KAR 1:044E. Mental health center services.
- 907 KAR 1:070E. Homecare waiver services.

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907 KAR 1:072E. Payments for homecare waiver services.

907 KAR 1:090E. Personal care assistance waiver services.

907 KAR 1:092E. Payments for personal care assistance waiver services.

Payment and Services

907 KAR 3:110E. Community mental health center substance abuse services.

Kentucky Children's Health Insurance Program

907 KAR 4:030E. Kentucky Children's Health Insurance Program Phase III Title XXI of the Social Security Act.

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

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

921 KAR 2:015E. Supplemental programs for persons who are aged, blind, or have a disability.

921 KAR 2:016E. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

921 KAR 2:017E. Kentucky Works supportive services.

921 KAR 2:370E. Technical requirements for Kentucky Works.

Department for Social Insurance: Division of Management & Development: Food Stamp Program

921 KAR 3:020E. Financial requirements.

921 KAR 3:030E. Application process.

The Subcommittee adjourned at 3:30 p.m. until April 11, 2000, at 10 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.

**HOUSE COMMITTEE ON NATURAL RESOURCES
AND ENVIRONMENT
Meeting of January 19, 2000**

And administrative regulation was available for consideration by the House Committee on Natural Resources and Environment during its meeting on January 19, 2000.

The following administrative regulation and an amendment proposed by the Department of Fish and Wildlife Resources were found to comply with KRS Chapter 13A:

Department of Fish and Wildlife Resources
301 KAR 1:085 and amendment

A copy of the administrative regulation and the amendment are attached for your convenience.

**HOUSE STANDING COMMITTEE ON
HEALTH AND WELFARE
Meeting of January 11, 2000**

The following administrative regulations were available for consideration by the House Standing Committee on Health and Welfare during its meeting of January 11, 2000, having been referred to the Committee on December 17, 1000, pursuant to KRS 13A.290(6):

201 KAR 2:040
907 KAR 1:060
907 KAR 1:061
907 KAR 4:020 & E

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 11, 2000 meeting, which are hereby incorporated by reference.

**SENATE STANDING COMMITTEE ON
HEALTH AND WELFARE**

The following administrative regulations were available for consideration by the Senate Standing Committee on Health and Welfare during its meeting of January 12, 2000, having been referred to the Committee on December 17, 1999, pursuant to KRS 13A.290(6):

201 KAR 2:040
907 KAR 1:060
907 KAR 1:061
907 KAR 4:020 & E

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 12, 2000 meeting, which are hereby incorporated by reference.

**HOUSE STANDING COMMITTEE ON
HEALTH AND WELFARE
Meeting of January 25, 2000**

The following administrative regulations were available for consideration by the House Standing Committee on Health and Welfare during its meeting of January 25, 2000, having been referred to the Committee on January 14, 2000, pursuant to KRS 13A.290(6):

201 KAR 17:011
201 KAR 17:012
201 KAR 17:013

201 KAR 17:015
201 KAR 17:025
201 KAR 17:027
201 KAR 17:030
201 KAR 17:041
201 KAR 17:070
201 KAR 17:090

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 25, 2000 meeting, which are hereby incorporated by reference.

**SENATE STANDING COMMITTEE ON
HEALTH AND WELFARE
Meeting of January 26, 2000**

The following administrative regulations were available for consideration by the Senate Standing Committee on Health and Welfare during its meeting of January 26, 2000, having been referred to the Committee on January 14, 2000, pursuant to KRS 13A.290(6):

201 KAR 17:011
201 KAR 17:012
201 KAR 17:013
201 KAR 17:015
201 KAR 17:025
201 KAR 17:027
201 KAR 17:030
201 KAR 17:041
201 KAR 17:070
201 KAR 17:090
902 KAR 55:020 & E
902 KAR 55:025 & E
907 KAR 1:011 & E
907 KAR 1:031
907 KAR 1:605
907 KAR 1:640 & E
907 KAR 1:645
922 KAR 2:090 & E
922 KAR 5:090

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 26, 2000 meeting, which are hereby incorporated by reference.

**HOUSE STANDING COMMITTEE ON
HEALTH AND WELFARE
Meeting of February 1, 2000**

The following administrative regulations were available for consideration by the House Standing Committee on Health and Welfare during its meeting of February 1, 2000, having been referred to the Committee on January 14, 2000, pursuant to KRS 13A.290(6):

902 KAR 55:020 & E
902 KAR 55:025 & E
907 KAR 1:011 & E
907 KAR 1:031
907 KAR 1:605
907 KAR 1:640 & E
907 KAR 1:645
922 KAR 2:090 & E
922 KAR 5:010

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Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 1, 2000 meeting, which are hereby incorporated by reference.

HOUSE STANDING COMMITTEE ON ECONOMIC DEVELOPMENT Meeting of February 3, 2000

The following administrative regulations were available for consideration by the House Standing Committee on Economic Development during its meeting of February 3, 2000, having been referred to the Committee on January 14, 2000, pursuant to KRS 13A.290(6):

306 KAR 1:010
306 KAR 1:020
306 KAR 1:030
306 KAR 1:040
306 KAR 1:070.

The following administrative regulations will be found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2), however, final action was deferred: 306 KAR 1:010

The Committee rationale for the finding of deficiency is as follows:

The definition of "employee" in Section 1(5) failed to include seasonal employees.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The following administrative regulations were deferred pursuant to KRS 13A.300: 306 KAR 1:010

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 3, 2000 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

Excerpts from the House Economic Development Committee meeting, February 3, 2000:

There was a motion and a second to amend 306 KAR 1:010 as follows: Section 1(5) should be changed to read as follows: on page 2, Section 1(5) after the word "zone" to delete "but" and insert "and" and after the word "shall" to delete "not". The motion was carried with a roll call vote of 16 yeas, 0 nays, and 0 passes. Gene Fuqua, representing the Cabinet for Economic Development, did not concur with the amendment, thus, the administrative regulation was not amended.

HOUSE STANDING COMMITTEE ON HEALTH AND WELFARE Meeting of February 15, 2000

The following administrative regulations were available for consideration by the House Standing Committee on Health and Welfare during its meeting of February 15, 2000, having been referred to the Committee on February 9, 2000, pursuant to KRS 13A.290(6):

201 KAR 20:070
201 KAR 20:110
201 KAR 20:240
201 KAR 20:390
201 KAR 20:411
201 KAR 35:050

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 15, 2000 meeting, which are hereby incorporated by reference.

SENATE STANDING COMMITTEE ON HEALTH AND WELFARE Meeting of February 16, 2000

The following administrative regulations were available for consideration by the Senate Standing Committee on Health and Welfare during its meeting of February 16, 2000, having been referred to the Committee on February 9, 2000, pursuant to KRS 13A.290(6):

201 KAR 20:070
201 KAR 20:110
201 KAR 20:240
201 KAR 20:390
201 KAR 20:411
201 KAR 35:050

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 16, 2000 meeting, which are hereby incorporated by reference.

HOUSE COMMITTEE ON LICENSING AND OCCUPATIONS Meeting of February 16, 2000

The following administrative regulation was available for consideration by the Standing House Licensing and Occupations Committee during its meeting of February 16, 2000, having been referred to the Committee on February 8, 2000, pursuant to KRS 13A.290(6): 201 KAR 18:192

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: 201 KAR 18:192

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 26, 2000 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

SENATE COMMITTEE ON LICENSING AND OCCUPATIONS Meeting of February 24, 2000

The following administrative regulation was available for consideration by the Standing Senate Licensing and Occupations Committee during its meeting of February 24, 2000, having been referred to the Committee on February 8, 2000, pursuant to KRS 13A.290(6): 201 KAR 18:192

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: 201 KAR 18:192

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

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The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 24, 2000 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates J - 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 J - 15

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 J - 24

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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Regulation Number	25 Ky.R. Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
VOLUME 25					
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.					
EMERGENCY ADMINISTRATIVE REGULATIONS:			201 KAR 9:310		
12 KAR 4:170E	2813	4-22-99	Amended	2427	
Expired		11-18-99	Withdrawn		3-3-2000
109 KAR 2:020E	2814	4-19-99	201 KAR 9:320	687	
Replaced		11-15-99	As Amended	2834	
109 KAR 15:020E	2816	4-19-99	Withdrawn		1-10-2000
Replaced		10-7-99	201 KAR 18:010		
200 KAR 30:010E	2311	2-26-99	Amended	2928	
Replaced		9-16-99	Withdrawn		9-13-99
200 KAR 30:020E	2312	2-26-99	201 KAR 18:050		
Replaced		9-16-99	Amended	2929	(See Volume 26)
200 KAR 30:030E	2313	2-26-99	201 KAR 18:071	2983	10-15-99
Replaced		9-16-99	201 KAR 18:080		
200 KAR 30:040E	2314	2-26-99	Amended	2930	(See Volume 26)
Replaced		9-16-99	201 KAR 18:091	2983	10-15-99
200 KAR 30:050E	2315	2-26-99	201 KAR 18:100		
Replaced		9-16-99	Amended	2931	(See Volume 26)
200 KAR 30:060E	2316	2-26-99	201 KAR 18:110		
Replaced		9-16-99	Amended	2931	(See Volume 26)
200 KAR 30:070E	2316	2-26-99	201 KAR 18:120		
Replaced		9-16-99	Amended	2932	(See Volume 26)
201 KAR 2:020E	2818	4-22-99	202 KAR 3:020		
Replaced		12-15-99	Amended	2933	(See Volume 26)
201 KAR 38:010E	2317	3-4-99	401 KAR 47:110		
Replaced		9-15-99	Amended	2433	(See Volume 26)
201 KAR 38:020E	2318	3-4-99	401 KAR 48:320	2476	(See Volume 26)
Replaced		9-15-99	401 KAR 68:010	1747	
201 KAR 38:030E	2319	3-4-99	Amended	2400	
Replaced		9-15-99	As Amended	2857	10-13-99
201 KAR 38:040E	2320	3-4-99	401 KAR 68:020	1748	
Replaced		9-15-99	Amended	2401	
201 KAR 38:060E	2322	3-4-99	As Amended	2858	(See Volume 26)
Replaced		9-15-99	401 KAR 68:048	1750	
415 KAR 1:080E	2529	4-12-99	Amended	2402	
Replaced		10-13-99	As Amended	2858	10-13-99
500 KAR 13:020E	2534	4-5-99	401 KAR 68:065	1751	
Replaced		9-16-99	Amended	2404	
501 KAR 6:020E	2819	5-14-99	As Amended	2859	10-13-99
Replaced		9-16-99	401 KAR 68:090	1753	
501 KAR 6:999E	2821	5-14-99	Amended	2405	
Replaced		9-16-99	As Amended	2859	10-13-99
806 KAR 17:066E	2323	3-12-99	401 KAR 68:100	1754	
Expired		9-18-99	Amended	2407	
900 KAR 6:050E	2536	3-26-99	As Amended	2859	(See Volume 26)
Expired		10-18-99	401 KAR 68:150	1756	
908 KAR 3:160E	2353	3-9-99	Amended	2408	
Replaced		9-15-99	As Amended	2860	10-13-99
ORDINARY ADMINISTRATIVE REGULATIONS:			401 KAR 68:200	1757	
11 KAR 15:040			Amended	2409	
Amended	2923	9-1-99	As Amended	2860	(See Volume 26)
200 KAR 5:340	2709	(See Volume 26)	415 KAR 1:120		
201 KAR 2:010			Amended	1122	(See Volume 26)
Amended	2925	(See Volume 26)	418 KAR 1:020		
201 KAR 2:095			Amended	2938	(See Volume 26)
Amended	2926	(See Volume 26)	418 KAR 1:030		
201 KAR 9:175			Amended	2940	(See Volume 26)
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Withdrawn		3-3-2000	Amended	2942	(See Volume 26)
			418 KAR 1:050		
			Amended	2944	(See Volume 26)

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418 KAR 1:060			907 KAR 1:019		
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418 KAR 1:070			Amended	1937	(See Volume 26)
Amended	2948	(See Volume 26)	907 KAR 1:021		
505 KAR 1:080	2985	(See Volume 26)	Amended	1252	
601 KAR 14:010			Amended	1940	(See Volume 26)
Amended	2952	(See Volume 26)	907 KAR 3:035	2732	(See Volume 26)
703 KAR 5:070	2731	(See Volume 26)	908 KAR 1:310		
802 KAR 1:010			Amended	2017	
Amended	434		Amended	2632	(See Volume 26)
Amended	880	(See Volume 26)	908 KAR 1:311	2484	(Volume 26)
902 KAR 20:160			908 KAR 1:370	2485	
Amended	2967	(See Volume 26)	Amended	355	(Volume 26)
902 KAR 20:240			922 KAR 7:251	2996	9-15-99
Amended	2971	(See Volume 26)	*Statement Of Consideration Not Filed By Deadline		
907 KAR 1:002					
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Withdrawn		9-10-99			

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40 KAR 6:020E	1088	10-27-99	Expired		1-18-2000
101 KAR 2:102E	1089	11-4-99	739 KAR 1:040E	351	6-22-99
101 KAR 3:015E	1094	11-4-99	Expired		1-18-2000
200 KAR 2:006E	341	7-1-99	739 KAR 1:050E	352	6-22-99
Replaced	1114	12-16-99	Expired		1-18-2000
202 KAR 6:010E	1383	11-23-99	780 KAR 3:065	1645	1-21-2000
202 KAR 6:020E	1384	11-23-99	780 KAR 3:071E	1647	1-21-2000
202 KAR 6:030E	1386	11-23-99	780 KAR 3:072E	1648	1-21-2000
202 KAR 6:040E	1388	11-23-99	780 KAR 3:075E	1653	1-21-2000
202 KAR 6:050E	1389	11-23-99	780 KAR 3:100E	1654	1-21-2000
202 KAR 6:060E	1391	11-23-99	780 KAR 6:005E	1656	1-21-2000
301 KAR 2:221E	1392	11-24-99	780 KAR 6:061E	1658	1-21-2000
Withdrawn		2-2-2000	780 KAR 6:062E	1659	1-21-2000
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301 KAR 2:222E	1394	11-24-99	803 KAR 2:300E	26	6-15-99
301 KAR 2:225E	703	8-31-99	Replaced	1004	11-15-99
Replaced	1534	2-14-2000	803 KAR 2:301E	27	6-15-99
301 KAR 2:226E	1397	11-24-99	Replaced	1004	11-15-99
401 KAR 5:011E	1641	2-14-2000	803 KAR 2:306E	29	6-15-99
401 KAR 5:072E	1642	2-14-2000	Replaced	1005	11-15-99
502 KAR 31:020E	24	5-26-99	803 KAR 2:307E	31	6-15-99
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503 KAR 1:110E	536	8-10-99	803 KAR 2:309E	33	6-15-99
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503 KAR 5:090E	538	8-10-99	803 KAR 2:313E	35	6-15-99
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505 KAR 1:090E	1398	12-14-99	803 KAR 2:414E	37	6-15-99
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Replaced	1156	12-16-99	803 KAR 2:500E	38	6-15-99
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739 KAR 1:010E	348	6-22-99	Expired		1-18-2000
Expired		1-18-2000	811 KAR 1:090E	1793	3-15-2000
739 KAR 1:020E	349	6-22-99	815 KAR 35:015E	541	7-30-99
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			902 KAR 4:040E	958	9-30-99
			902 KAR 55:020E	705	8-20-99
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907 KAR 1:070E	1499	12-30-99	32 KAR 1:180	492	
907 KAR 1:072E	1502	12-30-99	As Amended	714	9-22-99
907 KAR 1:090E	1503	12-30-99	40 KAR 6:020	1459	
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907 KAR 4:030E	1110	10-29-99	As Amended	558	8-25-99
921 KAR 2:006E	964	10-1-99	101 KAR 2:034	257	
921 KAR 2:015E	1508	12-30-99	As Amended	559	8-25-99
921 KAR 2:016E	971	10-1-99	101 KAR 2:036		
921 KAR 2:017E	979	10-1-99	Repealed	562	8-25-99
921 KAR 2:370E	982	10-1-99	101 KAR 2:037	260	
921 KAR 3:020E	1513	12-30-99	As Amended	526	8-25-99
921 KAR 3:030E	1517	12-30-99	101 KAR 2:046		
921 KAR 4:120E	708	8-10-99	Amended	91	
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			Amended	96	
			As Amended	566	8-25-99
			101 KAR 2:095		
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			Repealed	562	8-25-99
			101 KAR 2:102	261	
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			Amended	100	
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			Amended	101	
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			Amended	412	
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11 KAR 5:001		
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11 KAR 12:010		
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Amended	413		Amended	867	12-15-99
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103 KAR 30:091			Amended	1688	
Amended	415		201 KAR 8:130		
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103 KAR 30:095			201 KAR 8:220		
Repelaed	493	10-28-99	Amended	1690	
103 KAR 30:096	493	10-28-99	201 KAR 8:277		
109 KAR 2:020	494		Amended	1690	
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109 KAR 9:010			201 KAR 8:301	1736	
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Amended	862		201 KAR 9:041		
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200 KAR 14:091			Amended	1853	
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200 KAR 21:030			As Amended	997	10-15-99
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Amended	1436		Amended	1026	
As Amended	1798		As Amended	1524	1-26-2000
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Amended	1023		Amended	874	
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201 KAR 17:091			As Amended	728	10-20-99
Repealed	918	1-26-2000	201 KAR 35:050	1463	2-16-2000
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201 KAR 18:050			As Amended	587	9-15-99
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201 KAR 18:070			As Amended	587	9-15-99
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As Amended	719	10-15-99	201 KAR 38:040	285	
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As Amended	719	10-15-99	202 KAR 3:020		
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201 KAR 18:192	1460		*Expired		9-10-99
As Amended	1678	2-24-2000	301 KAR 1:085		
201 KAR 20:070			Amended	1028	
Amended	1437	2-16-2000	As Amended	1405	
201 KAR 20:110			As Amended	1531	1-19-2000
Amended	1438	2-16-2000	301 KAR 1:201		
201 KAR 20:240			Amended	113	9-8-99
Amended	1439	2-16-2000	301 KAR 1:400	288	9-8-99
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Amended	1441		Amended	116	9-8-99
As Amended	1680	2-16-2000	301 KAR 2:178		
201 KAR 20:411			As Amended	44	7-14-99
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Amended	1198		Repealed by 401 KAR 57:019		7-14-99
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Amended	118		401 KAR 59:485		
Amended	792		Repealed by 401 KAR 57:019		7-14-99
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401 KAR 5:009			Repealed by 401 KAR 57:019		7-14-99
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401 KAR 5:026			Repealed by 401 KAR 57:019		7-14-99
Amended	130		401 KAR 59:500		
Amended	804		Repealed by 401 KAR 57:019		7-14-99
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401 KAR 5:029			Repealed by 401 KAR 57:019		7-14-99
Amended	141		401 KAR 59:535		
Amended	815		Repealed by 401 KAR 57:019		7-14-99
As Amended	1141	12-8-99	401 KAR 59:540		
401 KAR 5:030			Repealed by 401 KAR 57:019		7-14-99
Amended	145		401 KAR 59:545		
Amended	819		Repealed by 401 KAR 57:019		7-14-99
As Amended	1144	12-8-99	401 KAR 59:550		
401 KAR 5:031			Repealed by 401 KAR 57:019		7-14-99
Amended	150		401 KAR 59:555		
Amended	824		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
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401 KAR 57:015			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
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401 KAR 57:025			Repealed by 401 KAR 57:019		7-14-99
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401 KAR 57:030			Repealed by 401 KAR 57:019		7-14-99
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418 KAR 1:030			501 KAR 6:050		
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418 KAR 1:050			501 KAR 6:080		
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418 KAR 1:060			501 KAR 6:110		
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501 KAR 4:060			Repealed	1053	2-14-2000
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501 KAR 4:100			Repealed	1053	2-14-2000
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501 KAR 4:110			Repealed	1053	2-14-2000
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