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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
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KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services

Teacher Scholarship Loan Program
11 KAR 8:030. Teacher scholarships. (Amended After Hearing)

COUNCIL ON POSTSECONDARY EDUCATION

Public Educational Institutions

PERSONNEL CABINET

Personnel Cabinet, Classified
101 KAR 2:140. Workers’ Compensation Fund and Program.

REVENUE CABINET
Department of Law
Division of Tax Policy

Sales and Use Tax; Miscellaneous Retail Transactions
103 KAR 28:140E. Telephonic and telegraphic communications and services.

BOARDS

Board of Pharmacy
201 KAR 2:240. Special limited pharmacy - charitable pharmacy.

Board of Barbering
201 KAR 14:180. License fees, examination fees, renewal fees and expiration fees. (Deferred from July)

Board of Social Work
201 KAR 23:015. Temporary permission to practice.
201 KAR 23:070. Qualifying education and qualifying experience under supervision.

Board of Licensure of Marriage and Family Therapists (Deferred from July)
201 KAR 32:030. Fees.
201 KAR 32:081. Inactive licensure status.
201 KAR 32:101. Reinstatement of license subject to disciplinary action.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources

Fish
301 KAR 1:015. Boats and motor restrictions.

Game
301 KAR 2:111. Deer and turkey hunting on federal areas.
301 KAR 2:172. Deer hunting seasons and requirements.
301 KAR 2:178. Deer hunting on wildlife management areas.
301 KAR 2:179. State park deer hunts.
301 KAR 2:221 & E. Waterfowl seasons and limits.
301 KAR 2:251. Hunting and trapping seasons and limits for furbearers and small game.

Hunting and Fishing
301 KAR 3:026. Access to wildlife management areas for mobility-impaired individuals.

Water Patrol
301 KAR 6:005. Boat registration fees.

CABINET FOR ECONOMIC DEVELOPMENT
Department of Financial Incentives
Kentucky Enterprise Zone Program

Economic Development
306 KAR 1:010. Definitions.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection

Water Quality

Department for Environmental Protection
Division for Air Quality

Attainment and Maintenance of the National Ambient Air Quality Standards
401 KAR 51:200. Regional NOx emission requirements.
Office of the Secretary
501 KAR 6:120. Blackburn Correctional Complex.
501 KAR 6:186 & E. Approval process for mental health professionals performing comprehensive sex offender presentence evaluations. (E' expires 10/18/2000) (Deferred from July)
501 KAR 6:200 & E. Comprehensive sex offender presentence evaluation procedure. (E' expires 13/18/2000) (Deferred from July)
501 KAR 6:999. Corrections secured policies and procedures.

Department of Criminal Justice Training
Kentucky Law Enforcement Council
503 KAR 1:140. Peace officer professional standards.

General Training Provision
503 KAR 3:030. Training charges.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Kentucky Department of Education
Bureau of Management Support Services

Office of Chief State School Officer
701 KAR 5:110. Use of local monies to reduce unmet technology need.
Office of Special Instructional Services

Fiscal Management
705 KAR 2:140. Equalization of funding for locally operated area vocational centers and vocational departments.

EDUCATION, ARTS AND HUMANITIES CABINET
Board of Education
Department of Education
Division of Exceptional Children Services

Exceptional and Handicapped Programs
707 KAR 1:340. Procedural safeguards and state complaint procedures. (Amended After Hearing) (Deferred from July)

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

General Administration
780 KAR 1:010. 2001-2004 program plan. (Deferred from July)

Management of the Kentucky TECH System
780 KAR 2:010. Administration of vocational-technical education schools. (Deferred from July)
780 KAR 2:011. Repeal of administrative regulations in 780 KAR Chapter 2. (Deferred from July)
780 KAR 2:030. Steering and advisory committees for area technology centers primarily serving secondary students. (Deferred from July)
780 KAR 2:040. Live work projects. (Deferred from July)
780 KAR 2:080. Discipline of students. (Deferred from July)
780 KAR 2:110. Student medical and accident insurance. (Deferred from July)
780 KAR 2:140. Tuition and fees. (Deferred from July)

Personnel System for Certified and Equivalent Employees
780 KAR 3:035. Employee evaluations.

Instructional Programs
780 KAR 4:010. General standards. (Deferred from July)
780 KAR 4:011. Repeal of administrative regulations in 780 KAR Chapter 4. (Deferred from July)
780 KAR 4:050. Certificate requirements for Kentucky TECH students. (Deferred from July)

Veterans’ Approval Agency
780 KAR 5:011. Repeal of administrative regulations in 780 KAR Chapter 5. (Deferred from July)

Facilities and Equipment of the Kentucky TECH System
780 KAR 7:010. Definitions. (Deferred from July)
780 KAR 7:011. Repeal of administrative regulations in 780 KAR Chapter 7. (Deferred from July)
780 KAR 7:020. Area technology center facility standards. (Deferred from July)
780 KAR 7:040. Facility maintenance. (Deferred from July)
780 KAR 7:050. Equipment inventory. (Deferred from July)

Adult Education
780 KAR 9:011. Repeal of administrative regulation in 780 KAR Chapter 9. (Deferred from July)

PUBLIC PROTECTION AND REGULATION CABINET
Department of Financial Institutions

Administration
808 KAR 1:150. Establishment and relocation of bank branches or offices.

Securities
808 KAR 10:030. Conduct of broker-dealers, agents, and employees; investment advisers and representatives. (Deferred from June)
808 KAR 10:040. Dishonest or unethical practice defined. (Amended After Hearing) (Deferred from July)
Kentucky Building Code

Plumbing
815 KAR 20:020. Parts or materials list.
815 KAR 20:130. House sewers and storm water piping; methods of installation.
815 KAR 20:150. Inspection and tests.
815 KAR 20:191. Minimum fixture requirements.

Office of State Fire Marshal

Electrical Inspectors

CABINET FOR HEALTH SERVICES
Department for Public Health

Radiology (Deferred from July)
902 KAR 100:010. Definitions.
902 KAR 100:035. Repeal of 902 KAR 100:035.
902 KAR 100:040. General provisions for specific licenses.
902 KAR 100:041. Quantities of radioactive materials requiring consideration of the need for an emergency plan.
902 KAR 100:042. Decommissioning and financial surety.
902 KAR 100:045. Exemptions.
902 KAR 100:058. Specific licenses to manufacture, assemble, repair, or distribute products.
902 KAR 100:070. Transportation of radioactive materials.
902 KAR 100:085. Exempt concentrations.
902 KAR 100:165. Notices, reports and instructions to employees.

Division of Licensing and Regulation

Office of Inspector General
906 KAR 1:110E. Critical access hospital services. (E expires 11/18/2000) (Deferred from July)

Department for Medicaid Services
Division of Physical Health

Medicaid Services
907 KAR 1:012E. Inpatient hospital services. (E expires 10/18/2000) (Deferred from June)
907 KAR 1:013E. Payments for hospital inpatient services. (E expires 10/18/2000) (Deferred from June)
907 KAR 1:044E. Mental health center services. (E expires 11/18/2000) (Deferred from July)
907 KAR 1:102. Advanced registered nurse practitioner services.
907 KAR 1:104. Reimbursement for advanced registered nurse practitioner services.

Payment and Services
907 KAR 3:068E. Nonemergency medical transportation waiver services and payments. (E expires 11/18/2000) (Deferred from July)

Department for Mental Health and Mental Retardation Services

Mental Health
908 KAR 2:210E. Domestic violence offender treatment certification standards. (E expires 10/18/2000) (Deferred from June)

Institutional Care
908 KAR 3:050E. Per diem rate pursuant to the "Patient Liability Act of 1978." (E expires 10/18/2000) (Deferred from June)

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

Child Support

Protection and Permanency

Child Welfare
922 KAR 1:140. Foster care and adoption permanency services. (Public Hearing in June)
922 KAR 1:300. Standards for child-caring facilities (residential and emergency shelter). (Amended After Hearing)
922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies. (Amended After Hearing)
922 KAR 1:310. Standards for child-placing agencies. (Amended After Hearing)
922 KAR 1:390. Standards for emergency shelter child-caring facilities. (Amended After Hearing)
922 KAR 1:395. Standards for residential child-caring facilities. (Amended After Hearing)
922 KAR 1:410. Family Preservation Program.
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.
NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS
RECEIVED AS OF NOON, JULY 14, 2000

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

June 23, 2000

(1) 11 KAR 15:010, Definitions.
(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, definition of terms pertaining to administration of the Kentucky Educational Excellence Scholarship Program used in one or more administrative regulations in 11 KAR Chapter 15.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.
(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601. (800) 693-8211, Facsimile number 695-7293.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing;"
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 164.7885(7).
(b) The amendment to the administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will add or modify definitions or reference statutory definitions of terms including: "Correspondence courses," "Kentucky Educational Excellence scholarship," "KEES," "KEES program officer," "Council," "Eligible program of study," "Eligible high school student," "Eligible postsecondary student."
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164.7871 to 164.7885 requires the authority to administer certain aspects of the Kentucky Educational Excellence Scholarship Program and to promulgate administrative regulations for the administration of the program. This regulation defines or references certain statutory definitions of terms commonly used in the administration of the program.
(d) The benefits expected from the administrative regulation are: Establishment of uniform meaning of commonly used terms in the administration of the Kentucky Educational Excellence Scholarship Program.
(e) The administrative regulation will be implemented as follows: Commonly used terminology will be prescribed with uniform meaning.

June 23, 2000

(1) 11 KAR 15:020, Student eligibility requirements.
(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, prescribing procedures for verifying continuing eligibility of an eligible student pursuant to KRS 164.7885(4).
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.
(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 695-7293.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing;"
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to scholarship programs in general and the Kentucky Educational Excellence Scholarship in particular is KRS 164.748(4) and 164.7885(7).
(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will provide that the participating institutions shall verify to the authority initial eligibility and enrollment of students after the commencement of the award period. Participating institutions shall certify to the authority, by June 30 after the end of the award period, the cumulative GPA of students being considered for renewal eligibility for the Kentucky Educational Excellence Scholarships under the provision of KRS 164.7885(4).
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164.7885(4) states that the participating institutions shall verify to the authority the eligible student's cumulative grade point average after completion of each award period. This proposed administra-
tive regulation is needed to ensure that the authority can calculate the amount of the award, and disburse in a timely fashion, the funds that the student shall receive in a subsequent award period.

(d) The benefits expected from the administrative regulation are: This proposed administrative regulation is needed to ensure that the authority can calculate the amount of the award and disburse in a timely fashion, the funds that the student shall receive in a subsequent award period with a minimum of burden to postsecondary institutions.

(e) The administrative regulations will be implemented as follows: The participating institutions shall provide to the authority, after the commencement of each academic term and by June 30 after the end of an award period each year, certification to the authority of the enrollment and eligibility of all enrolled students, in order to determine initial and renewal eligibility.

June 23, 2000

(1) 11 KAR 15:030, Dual enrollment under consortium agreement.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, setting the conditions for Kentucky Educational Excellence Scholarship eligibility of a student simultaneously enrolled in 2 or more participating institutions.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601,(800) 693-8211, Facsimile number (502) 696-7293.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to scholarship programs in general and the Kentucky Educational Excellence Scholarship in particular is KRS 164.748(4) and 164.7885(7).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will provide that an otherwise eligible student who is enrolled simultaneously in 2 or more participating institutions, is eligible under this section if the program of study is covered by a consortium agreement between the participating institutions.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164.748(4) requires KHEAA to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.7885(7) allows the authority to establish by administrative regulation procedures for the administration of the Kentucky Educational Excellence Scholarship Program. This administrative regulation sets the conditions for Kentucky Educational Excellence Scholarship eligibility for a student simultaneously enrolled in 2 or more participating institutions.

(d) The benefits expected from the administrative regulation are: The amendment to this administrative regulation is intended to update terms that were defined in Senate Bill 125 enacted by the 2000 Regular Session of the General Assembly.

(e) The administrative regulations will be implemented as follows: The participating institutions shall execute a consortium agreement according to the terms and conditions that generally designate a primary institution to coordinate and be responsible for performing the duties required by law, administrative regulation, and agreement as if the eligible student is enrolled only at that primary institution.

June 23, 2000

(1) 11 KAR 15:050, Disbursement.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, disbursement of funds to eligible students under the Kentucky Educational Excellence Scholarship Program.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number (502) 696-7293.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 164.7885(7).

(b) The amendment to this administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will delete
Section 1 pertaining to completion of an eligibility verification roster by the participating institution each academic term to reflect the enrollment status and continued eligibility of each eligible student. This provision is being moved and added to 11 KAR 5:020 pertaining to student eligibility. Funds shall be disbursed by a check payable to the institution or by electronic funds transfer. The scholarship funds shall then be delivered by the institution to the eligible student or applied to the student's account. The participating institution shall be liable for improper delivery of funds, including delivery of the wrong amount or delivery of funds to the wrong individual or to an ineligible student.

(d) The benefits expected from the administrative regulation are: Timely disbursement of funds following verification of continued eligibility by the participating institution, using the most economical and efficient method of delivery of funds to each eligible student in accordance with KRS 164.7885(5). The administrative regulation also provides for liability of the participating institution for improper disbursement to the wrong person or ineligible students as protection of the trust fund. The amendment to this administrative regulation is intended to update terms that were defined in Senate Bill 125 enacted by the 2000 Regular Session of the General Assembly.

(e) The administrative regulation will be implemented as follows: An eligibility verification roster shall be completed by the participating institution each academic term to reflect the enrollment status and continued eligibility of each eligible student. The roster shall then be returned to the authority by the institution prior to disbursement of funds. Funds shall be disbursed by a check payable to the institution or by electronic fund transfer. The scholarship funds shall then be delivered by the institution to the eligible student or applied to the student's account. The participating institution shall be liable for improper delivery of funds, including delivery of the wrong amount or delivery of funds to the wrong individual or to an ineligible student.

June 23, 2000

(1) 11 KAR 15:070, Records and reports.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly setting forth the requirements for participating institutions and the Kentucky Department of Education to provide records and reports to the authority.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to scholarship programs in general and the Kentucky Educational Excellence Scholarship in particular is KRS 164.748(4) and 164.7885(7).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will provide that participating institutions and the Kentucky Department of Education shall provide certain records and reports to the authority for purposes of the Kentucky Educational Excellence Scholarship.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164.748(4) requires KHEAA to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.7885(7) allows the authority to establish by administrative regulation procedures for the administration of the Kentucky Educational Excellence Scholarship Program. This administrative regulation sets the conditions by which records shall be retained and reports shall be made to the authority.

(d) The benefits expected from the administrative regulation are: The administrative regulation is intended to provide for the exchange of necessary information in order to carry out the goals of the Kentucky Educational Excellence Scholarship Program. The amendment to this administrative regulation is intended to update terms that were defined in Senate Bill 125 enacted by the 2000 Regular Session of the General Assembly.

(e) The administrative regulations will be implemented as follows: The participating institutions shall maintain an organized system of records on enrolled eligible students and retain these records for a period of not less than 3 years after the award year in which the eligible postsecondary student ceased enrollment. The Kentucky Department of Education shall transmit to the authority compiled data from the data received from the various Kentucky high schools within 30 days after having received the information from the high schools.

June 23, 2000

(1) 11 KAR 16:001, Definitions.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, definition of terms pertaining to administration of the Early Childhood Development Scholarship Program used in one or more administrative regulations in 11 KAR Chapter 16.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 21, 2000, the public hearing will be cancelled.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

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

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing,"; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 2000 Ky. Acts ch. 308 sec. 13(3).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will define terms or reference statutory definitions of terms including: "Academic term," "Authority," "ECDA," "Participating institution," "scholarship".

(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 308 sec. 13(3) requires the authority to promulgate administrative regulations, after consultation with the Early Childhood Development Authority (ECDA) and the Cabinet for Families and Children, for the administration of the Early Childhood Development Scholarship Program, including a system of monetary incentives for scholarship program participants for completing classes. This regulation defines or references certain statutory definitions of terms commonly used in the administration of the program.

(d) The benefits expected from the administrative regulation are: Establishment of uniform meaning of commonly used terms in the administration of the Early Childhood Development Scholarship Program.

(e) The administrative regulation will be implemented as follows: Commonly used terminology will be prescribed with uniform meaning.

June 23, 2000

1. **11 KAR 16:010, Applicant selection process.**

2. The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, the process for selection of scholarship recipients pertaining to administration of the Early Childhood Development Scholarship Program.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing,"; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

4(a) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 2000 Ky. Acts ch. 308 sec. 13(3).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will establish the process and criteria for selection of scholarship recipients.

(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 308 sec. 13(3) requires the authority to promulgate administrative regulations, after consultation with the Early Childhood Development Authority (ECDA) and the Cabinet for Families and Children, for the administration of the Early Childhood Development Scholarship Program, including a system of monetary incentives for scholarship program participants for completing classes. This regulation will establish the process and criteria for selection of scholarship recipients.

(d) The benefits expected from the administrative regulation are: Establishment of the process and criteria for selection of scholarship recipients in the administration of the Early Childhood Development Scholarship Program will ensure that funds are only provided to eligible individuals and that the selection of recipients is made by the ECDA, which is in the best position to assess the recipients’ qualifications.

(e) The administrative regulation will be implemented as follows: Prior to the beginning of each academic term, ECDA shall oversee selection of scholarship recipients and send notification to the authority of those students eligible to receive the scholarship.

June 23, 2000

1. **11 KAR 16:020, Disbursement process.**

2. The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, the process for disbursement of scholarship funds for the benefit of recipients pertaining to administration of the Early Childhood Development Scholarship Program.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least
10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 2000 Ky. Acts ch. 308 sec. 13(3).
(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will establish the process for disbursement of scholarship funds for the benefit of recipients.
(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 308 sec. 13(3) requires the authority to promulgate administrative regulations, after consultation with the Early Childhood Development Authority (ECDA) and the Cabinet for Families and Children, for the administration of the Early Childhood Development Scholarship program, including a system of monetary incentives for scholarship program participants for completing classes. This regulation will establish the process for disbursement of scholarship funds for the benefit of recipients.
(d) The benefits expected from the administrative regulation are: Timely and cost effective disbursement of scholarship funds for the benefit of recipients in the administration of the Early Childhood Development Scholarship Program.
(e) The administrative regulation will be implemented as follows: Within 30 days following receipt by the authority of the information from the ECDA, the monies awarded under the Early Childhood Development Scholarship shall be transmitted to participating educational institutions on behalf of eligible students by electronic funds transfer (EFT). Upon the student's registration, the school shall immediately credit the scholarship recipient's account, notify the recipient in writing that it has so credited that account, and deliver to the recipient any remaining Early Childhood Development Scholarship proceeds.

June 23, 2000

(1) 11 KAR 16:030. Overawards and refunds.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, the procedures for refund to the authority of monies paid under the Early Childhood Development Scholarship Program.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 2000 Ky. Acts ch. 308 sec. 13(3).
(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will establish the process for refund to the authority of monies paid under the Early Childhood Development Scholarship Program.
(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 308 sec. 13(3) requires the authority to promulgate administrative regulations, after consultation with the Early Childhood Development Authority (ECDA) and the Cabinet for Families and Children, for the administration of the Early Childhood Development Scholarship Program, including a system of monetary incentives for scholarship program participants for completing classes. This administrative regulation establishes procedures for refund to the authority of monies paid under the Early Childhood Development Scholarship Program.
(d) The benefits expected from the administrative regulation are: Recovery of scholarship funds for the benefit of other scholarship recipients if a student fails to enroll or officially withdraws from the program of study.

(1) 11 KAR 16:040. Recordkeeping requirements.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, the requirements for maintaining records under the Early Childhood Development Scholarship Program.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

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

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

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

7. Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 2000 Ky. Acts ch. 308 sec. 13(3).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will establish requirements for maintaining records under the Early Childhood Development Scholarship Program.

(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 308 sec. 13(3) requires the authority to promulgate administrative regulations, after consultation with the Early Childhood Development Authority (ECDAA) and the Cabinet for Families and Children, for the administration of the Early Childhood Development Scholarship Program, including a system of monetary incentives for scholarship program participants for completing classes. This administrative regulation establishes requirements for maintaining records under the Early Childhood Development Scholarship Program.

(d) The benefits expected from the administrative regulation are: This administrative regulation provides for retention of documentation to create an audit trail to ensure compliance with program requirements pertaining to disbursement and refund of scholarship proceeds.

(e) The administrative regulation will be implemented as follows: The participating educational institution shall maintain complete and accurate records pertaining to the eligibility, enrollment, and progress of students receiving aid under this program and the disbursement of funds and institutional charges as may be necessary to audit the disposition of these funds. The school's records shall be maintained for at least three (3) years after the student ceases to be enrolled at the educational institution.

June 23, 2000

1. 11 KAR 16:050, Administrative costs.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, the mechanism for payment of administrative costs under the Early Childhood Development Scholarship Program.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

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

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

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

7. Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 2000 Ky. Acts ch. 308 sec. 13(3).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will establish requirements for maintaining records under the Early Childhood Development Scholarship Program.

(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 308 sec. 13(3) requires the authority to promulgate administrative regulations, after consultation with the Early Childhood Development Authority (ECDAA) and the Cabinet for Families and Children, for the administration of the Early Childhood Development Scholarship Program, including a system of monetary incentives for scholarship program participants for completing classes. This administrative regulation establishes requirements for maintaining records under the Early Childhood Development Scholarship Program.

(d) The benefits expected from the administrative regulation are: This administrative regulation establishes the mechanism for payment of administrative costs under the Early Childhood Development Scholarship Program.

(e) The administrative regulation will be implemented as follows: The authority shall enter into an agreement with the ECDAA that provides for payment of costs incurred to the authority related to administration of the Early Childhood Development Scholarship Program.

June 23, 2000

1. 11 KAR 16:060, Monetary incentives.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, the responsibility for administration of the system of monetary incentives offered to Early Childhood Development Scholarship...
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

recipients.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, August 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to Monday, August 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: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164.748(4) and 2000 Ky. Acts ch. 308 sec. 13(3).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will establish responsibility for administration of the system of monetary incentives offered to Early Childhood Development Scholarship recipients.

(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 308 sec. 13(3) requires the authority to promulgate administrative regulations, after consultation with the Early Childhood Development Authority (ECDA) and the Cabinet for Families and Children, for the administration of the Early Childhood Development Scholarship Program, including a system of monetary incentives for scholarship program participants for completing classes. This administrative regulation establishes responsibility for administration of the system of monetary incentives offered to Early Childhood Development Scholarship recipients.

(d) The benefits expected from the administrative regulation are: This administrative regulation establishes the mechanism for payment of additional monetary incentives under the Early Childhood Development Scholarship Program for scholarship recipients.

(e) The administrative regulation will be implemented as follows: Licensed Type I and Type II child-care centers located throughout Kentucky will be responsible for administering a system of additional monetary incentives for scholarship recipients based on criteria and instructions established by KHEAA after consultation with ECDA.

OFFICE OF THE ATTORNEY GENERAL

June 15, 2000

(1) 40 KAR 3:010. Payment schedule to hospitals/physicians for medical examination of victims of sexual offenses.

(2) The Office of the Attorney General intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000 at 10 a.m. at 1024 Capital Center Drive, Frankfort, Kentucky.

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

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

(5)(b) Persons who wish to request a public hearing should mail their written request to the following address: Pat Arnold, Assistant Director, Prosecutors Advisory Council Staff, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 696-5503, (502) 696-5532 (FAX).

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Office of the Attorney General 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 216B.400.

(b) The administrative regulation that the Attorney General intends to promulgate will amend 40 KAR 3:010, Payment schedule to hospitals/physicians for medical examination of victims of sexual offenses. It will add the provision for a sexual assault examination facility to be reimbursed for medical examination of victims of sexual offenses and increase the reimbursement rate of physicians and sexual assault nurse examiners from $50 to $200; hospitals for use of an emergency room from $35 to $250; and hospitals to perform laboratory tests from $35 to $94.

(c) The necessity and function of the proposed administrative regulation is as follows: Add sexual assault examination facility to the payment schedule for performance of sexual assault exams. Revise reimbursement rates to level approved by General Assembly in FB 2000-2002 budget.

(d) The benefits expected from administrative regulation are improved services to victims of sexual assault by providing additional trained personnel to perform sexual assault examinations.

(e) The administrative regulation will be implemented by payment paid to the service provider through the Rape Victims Assistance Program, Unified Prosecutorial System, administered by the Prosecutors Advisory Council Staff, Office of the Attorney General.
July 12, 2000
(1) 103 KAR 1:050, Forms manual.
(2) The Revenue Cabinet 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 August 31, 2000 at 2 p.m. at 200 Fair Oaks Lane, Third Floor, Training Room A, 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 August 31, 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: Edward A. Mattingly, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone Number (502) 564-6843, extension 4431, Facsimile Number (502) 564-9565, E-mail: eddie.mattingly@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 Revenue Cabinet at the address listed above.
   (7) Information relating to the proposed administrative regulation:
   (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative forms is KRS 131.130.
   (b) The administrative regulation that the Revenue Cabinet intends to promulgate will amend 103 KAR 1:050. The proposed amendment will prescribe forms not prescribed by the existing regulation, prescribe changes in existing forms and remove from the regulation forms no longer in use.
   (c) The necessity and function of the proposed administrative regulation is as follows: This regulation is specifically required by KRS 131.130(3) which authorizes the Revenue Cabinet to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.
   (d) The benefits expected from the administrative regulation are:
      1. Incorporation by reference of all forms prescribed by the Revenue Cabinet pursuant to KRS Chapter 13A.
      2. Accumulation in one source and location of all forms prescribed by the Revenue Cabinet.
      3. Periodic updating of regulation referencing prescribed forms.
   (e) The administrative regulation will be implemented as follows: The Revenue Cabinet will maintain the Forms Manual in the Department of Law. The Department of Law will be responsible for periodic updating of the regulation and manual.

July 14, 2000
(1) 103 KAR 5:160, Property valuation administrator office employees: payment of leave upon separation.
(2) The Revenue Cabinet intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 12 noon at the office of the Revenue Cabinet, 200 Fair Oaks Lane, Third Floor, Training Room A, 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 August 31, 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: Nick Kearney, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone Number: (502) 564-6843, Facsimile Number: (502) 564-9565, E-mail: nick.kearney@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 Revenue Cabinet at the address listed above.
   (7) Information relating to the proposed administrative regulation:
   (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 132.370.
   (b) The administrative regulation that the Revenue Cabinet intends to promulgate will establish the forms and procedures required for the implementation of HB 824.
   (c) The necessity and function of the proposed administrative regulation is as follows: This regulation is specifically required by KRS 132.370 which directs the Revenue Cabinet to promulgate regulations necessary to carry out the provisions of HB 824 of the 2000 General Assembly.
   (d) The benefits expected from the administrative regulation are:
      1. Fairness in the treatment of employees of property valuation administrator offices, who will receive payment of accrued annual leave similar to other state employees.
      2. An increase in productivity in property valuation administrator offices, as a result of more timely hiring and training of new employees, since currently employees must take time off upon resignation in order to be paid for accrued annual leave, effectively blocking their replacement until their accrued leave is depleted.
   (e) The administrative regulation will be implemented as follows: The provisions of this administrative regulation will be incorporated into the personnel procedures of the Revenue Cabinet's PVA Administrative Support Branch.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

July 12, 2000

(1) 103 KAR 44:060, Motor vehicle usage tax valuation.
(2) The Revenue Cabinet 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 August 31, 2000 at 10 a.m. at 200 Fair Oaks Lane, Third Floor, Training Room A, Frankfort, Kentucky.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 6 persons, or an administrative body, or an association having at least 6 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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: Edward A. Mattingly, Tax Consultant, Kentucky Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone Number (502) 564-6843, extension 4431, Facsimile Number (502) 564-9565, E-mail: eddie.mattingly@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 Revenue Cabinet at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative forms is KRS 138.450 through 138.470.
(b) The administrative regulation that the Revenue Cabinet intends to amend establishes the form and procedures required for the administration of KRS 138.450 through 138.470.
(c) The necessity and function of the proposed administrative regulation is as follows: This amended regulation will define the term "nominal consideration" with regard to an amount stated on an affidavit of total consideration given for a motor vehicle.
(d) The benefits expected from the administrative regulation are:
1. Clarity of the term "nominal consideration" in the determination of vehicle values for motor vehicle usage tax.
2. Fair and consistent valuation of vehicles and determination of taxes due the Commonwealth.
(e) The administrative regulation will be implemented as follows: The Revenue Cabinet will contact county clerks and advise of the prescribed definition of "nominal consideration".

KENTUCKY RETIREMENT SYSTEMS

July 14, 2000

(1) 105 KAR 1:290. Medical insurance reimbursement plan.
(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.
(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for at August 21, 2000, 9 a.m., at Kentucky Retirement Systems, Perimeter Park West, 1260 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 August 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: Pamala S. Johnson, General Manager, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124; phone (502) 564-4646; fax (502) 564-5566.
(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems 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 medical insurance reimbursement plan is KRS 61.645(9)(e) and 61.702.
(b) The administrative regulation that the Kentucky Retirement Systems intends to promulgate will establish a plan to reimburse recipients who live outside the coverage areas of the insurance providers in the state's group medical insurance plan for hospital and medical insurance premiums paid by them.
(c) The necessity and function of the proposed administrative regulation is as follows: Because of the failure of the state's Kentucky Care insurance, public employees and retirees have had to accept managed care coverage. These plans do not provide the same level of benefits to retirees living outside of Kentucky. This forces out-of-state retirees to have to pay for private insurance. The 2000 General Assembly enacted legislation to establish a medical insurance reimbursement plan in order to assist out-of-state retirees and beneficiaries financially in obtaining coverage when the state's group plan does not provide them with the same level of coverage as retirees living in Kentucky.
(d) The benefits expected from the administrative regulation are: Retirees living in other states will be able to receive reimbursement up to the amount the retirement system would have contributed toward their coverage in Kentucky. This will help cut-out-state retirees to afford decent health insurance coverage.
(e) The administrative regulation will be implemented as follows: The retirement system will establish requirements for submitting proof of insurance and payment of premium, as well as deadlines for filing to be reimbursed on a quarterly basis.
(1) 106 KAR 4:010. Commonwealth of Kentucky Military Veterans Burial Honor Guard Trust Fund.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 10 a.m. Eastern Daylight Savings Time, at The Office of the Adjutant General, EOC Conference Room 202, Building 100, Boone National Guard Center, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168.

(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 August 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: Larry C. Barker, Executive Director, DMA Office of Management and Administration, Building 100 (EOC) BNGC, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, (502) 607-1520, (502) 607-1560 (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 Department of Military Affairs 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 Commonwealth of Kentucky Military Veteran Burial Honor Guard Trust Fund is 2000 Ky. Acts ch. 378.

(b) The administrative regulation that the Department of Military Affairs intends to promulgate will create a new regulation to oversee and administer the Commonwealth of Kentucky Military Veterans Burial Honor Guard Trust Fund and the State Military Funeral Honors Program. It will not amend an existing administrative regulation. It will implement and provide supplemental funding for the conduct of a State Military Funeral Honors (SMFH) program within the Commonwealth of Kentucky, in concert with the provisions of the federally mandated Department of Defense (DoD) Military Funeral Honors (MFH) Program, for eligible military veterans who have served their state and nation in the Armed Forces.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows:
1. The Commonwealth of Kentucky recognizes the need to provide for honorable burials for Kentuckians who have served their state and nation in the Armed Forces. Historically these burials service have been conducted by the active military units in Kentucky, the Kentucky National Guard, the military reserves, and the veteran’s service organizations. However, increasing death rates, declining military resources, and an aging membership of veteran’s service organizations present the need for new initiatives in support of military burials.

2. The Department of Military affairs will oversee the burial honors program and implement and administer the "Burial Honor Guard Trust Fund" in consultation with and as a supplement to the Department of Defense, active United States military commands in Kentucky, the Department of Veterans Affairs, the military reserves, and veterans service organizations. The regulation will establish operational and fiscal coordination and controls and require prior approval of Military Funeral Honors Program activities and their associated costs, subject to the availability of funds, between the various operational agencies and organizations. The regulation will assign program responsibilities, designate a State Military Funeral Honors Coordinator within the Department of Military Affairs and provide contact and eligibility information.

3. This regulation will comply with and supplement the Department of Defense and the Armed Service’s guidance established in PL 104-85, Section 757 of the National Defense Authorization Act for fiscal year 2000 concerning the Military Funeral Honor Program which required the federal military to perform a basic, 2 person, level of funeral honors upon request for all eligible veterans signifying America’s gratitude for their honorable service.

(d) The benefits expected from administrative regulation are: The benefits of the administrative regulation are improved coordination of military burial honors between the various military and veteran’s service organizations and fiscal program funding for prior approved, designated personnel and travel expenses incurred and the costs deemed necessary in the course of providing and supporting the personnel and activities of this program.

(e) The administrative regulation will be implemented as follows:
1. The rendering of military funeral honors is the ceremonial paying of respect and the final demonstration of the country’s gratitude to those who, in times of war and peace, have faithfully defended our Nation in the Armed Forces. The provision of military funeral honors is designated a total force mission. Both active and reserve component members may perform this mission.

2. While many veterans think of military funeral honors as a right, the honors grew from custom, not DoD policy. Until the new federal and state laws, nothing actually said the honors were a mandatory function. Congress responded to public concerns by writing a provision into the federal fiscal year 2000 Defense Authorization Act requiring the military to perform at least a basic level of funeral honors upon request for all eligible veterans.

3. As of 1 January 2000, PL 106-85, Section 757 of the National Defense Authorization Act for Fiscal Year 2000 requires the Department of Defense to provide, upon request of the next of kin, Military Funeral Honors for eligible veterans, signifying America's gratitude for their honorable service. 2 service members will fold and present the American flag to surviving family members, and a bugler will sound "Taps." If a bugler is not available, a high-quality CD will be used.

4. Also, the legislature of the Commonwealth of Kentucky passed and the governor enacted 2000 Ky. Acts ch. 378 which provided for a state trust fund and program to supplement incurred and necessary costs arising from the Military Funeral Honors support activities within the Commonwealth of Kentucky. This state program was effective, by law, on July 1, 2000.

5. At least 1 member of the funeral detail will be from the deceased veteran’s parent military service. The other may be from the same service or another military service. Other authorized MFH providers, such as members of a veteran’s organization, may be used to augment the military detail. No particular rank is specified in the law, but the services by tradition have ensured the person presenting the flag to the family is at least the grade of the deceased veteran.

6. Veterans are now entitled to Military Funeral Honors if they served in the active military and were discharged under other than dishonorable conditions, or if they were a member or former member of the Selective Reserve. The Selective Reserve consists of units and individuals in each reserve component that participate in paid training periods and serve on paid active duty for training. Veterans are ineligible if they are convicted of federal or state murder or drug offenses and sentenced to life imprisonment without parole or receive the death penalty.

7. DoD's new policy calls for funeral directors, rather than families, to contact the appropriate DoD Casualty Assistance Office. Military Funeral
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

Honors must be requested, they aren't provided automatically.
8. Requests from funeral directors for MFH support must be directed to the DoD Centralized Toll Free Access system at 1-877-MIL-HONR (1-877-645-4667). This DoD component will coordinate with the Kentucky Department of Military Affairs or other military element to provide the requested support to eligible veterans.
9. Information on MFH and the funeral honors process is available to funeral directors, veterans and family members at the DoD Web site www.militaryfuneralhonorsscmd.mil.
10. The Adjutant General may establish on going liaison and formal agreements with DoD authorized Military Funeral Honors providers within the state to assist them in obtaining DoD recognition, training and support. Authorized providers may perform, augment and supplement military MFH details. Authorized providers include veteran service organizations (VSO), State Military Honors Programs and other appropriate individuals and organizations which support the rendering of funeral honors.
11. Program encumbrances and disbursements will be approved prior to the conduct of any funeral detail by the Department of Military Affairs subject to the availability of funds. Program expenditures will not be made for any commodities or services otherwise provided by existing federal or state entitlement or program. Request must be a minimum of 48 hours in advance of the requested burial ceremony.

KENTUCKY BOARD OF MEDICAL LICENSURE

July 13, 2000
(1) 201 KAR 9:021. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees.
(2) The Kentucky Board of Medical Licensure 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 Tuesday, August 28, 2000, at 10 a.m., at the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 29, 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: C. Lloyd Vest, II, Esq., Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, (502) 429-8046, or fax (502) 429-9323.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Medical Licensure at the address 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 311.655 and 311.671.
(b) The administrative regulation that the Kentucky Board of Medical Licensure intends to promulgate will provide equal postgraduate training requirements for U.S. medical graduates and international medical graduates - 2 years of approved postgraduate training.
(c) The necessity and function of the proposed administrative regulation is as follows: Establishes the required duration of postgraduate training.
(d) The benefits expected from administrative regulation are: It will provide for equal postgraduate training requirements for U.S. medical graduates and International medical graduates.
(e) The administrative regulation will be implemented as follows: The regulation will be implemented as stated as soon as it becomes effective.

KENTUCKY REAL ESTATE COMMISSION

July 12, 2000
(1) 201 KAR 11:071, Repeal of 201 KAR 11:070, Sponsoring of sales associate.
(2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 10 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, telephone (502) 425-4273, fax (502) 425-2717.
(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."
(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).
(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will repeal an existing regulation. It will
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

repeal 201 KAR 11:070 “Sponsoring of sales associate”

(c) The necessity and function of the proposed administrative regulation is as follows: To repeal 201 KAR 11:070 as the regulation is no longer necessary in light of current technological and electronic communication and supervision mechanisms.

(d) The benefits expected from administrative regulation are: allows licensees to transact real estate brokerage without unnecessary regulatory burden of association with a broker within 50 miles of the licensee’s residence. Repeal of regulation will remove arbitrary mileage distance limitation detailed in statute.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment and repeal of 201 KAR 11:070.

July 12, 2000

(1) 201 KAR 11:440, Unlicensed assistant duties.

(2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 10 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, telephone (502) 425-4273, fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will specifically detail activity that an unlicensed assistant may perform for a real estate company or a real estate licensee.

(c) The necessity and function of the proposed administrative regulation is as follows: Confusion exists among licensees and the consumer public as to what activity may be performed by an unlicensed assistant. As KRS Chapter 13A prohibits an agency formulating policy in the absence of an administrative regulation, the Real Estate Commission desires to create a regulation on this subject.

(d) The benefits expected from administrative regulation are: Regulation rather than policy mandated by KRS 13A.100, eliminate confusion that exists among licensee and consumer population.

(e) The administrative regulation will be implemented as follows: Implementation upon enactment.

KENTUCKY BOARD OF OPHTHALMIC DISPENSERS

July 13, 2000

(1) 201 KAR 13:010. Board; powers, duties, meetings.

(2) The Kentucky Board of Ophthalmic Dispensers intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 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 August 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: Nancy Black, Director, Division of Occupations and Professions, PO Box 1399, Frankfort, Kentucky 40602-0455, Telephone No. (502) 564-3296, Telefax No. (502) 564-6818.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to board organization and meetings is KRS 326.020(3).

(b) The administrative regulation that the Kentucky Board of Ophthalmic Dispensers intends to promulgate will amend 201 KAR 13:010. The amendments will remove references to examinations.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 326.020(3) allows the board to promulgate administrative regulations that will enable it to carry out the purposes of KRS Chapter 326. This administrative regulation amendment will specify the officers, duties and meeting dates for the board.

(d) The benefit expected from this administrative regulation is that the regulation will enable the board to conduct its meetings in an organized manner.

(e) This administrative regulation will be implemented as follows: The board will follow the requirements of the regulation in performing its
July 13, 2000

(2) The Kentucky Board of Ophthalmic Dispensers intends to promulgate an administrative regulation to repeal the requirements of 201 KAR 13:011.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 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 August 21, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, PO Box 1360, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

(b) On request for public hearing, a person shall state:
   1. "I agree to attend the public hearing."); or
   2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
(c) Information relating to the proposed administrative regulation.
(d) The statutory authority for the promulgation of an administrative regulation relating to board organization and meetings is KRS 326.020(3).
(e) The administrative regulation that the Kentucky Board of Ophthalmic Dispensers intends to promulgate will repeal an existing regulation.

The requirements mandated by 201 KAR 13:011 are no longer necessary.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 201 KAR 13:011 is no longer required because the board otherwise requires the licenses to be displayed.
(d) The benefit expected from this administrative regulation is that repealing 201 KAR 13:011 will eliminate a requirement that is not effective in furthering the board's goal of protecting the public.
(e) This administrative regulation will be implemented as follows: 201 KAR 13:011 will be repealed.

July 13, 2000

(1) 201 KAR 13:030. Contact lens fitting.

(2) The Kentucky Board of Ophthalmic Dispensers intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 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 August 21, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, PO Box 1360, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

(b) On request for public hearing, a person shall state:
   1. "I agree to attend the public hearing."); or
   2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
(c) Information relating to the proposed administrative regulation.
(d) The statutory authority for the promulgation of an administrative regulation relating to contact lens fitting is KRS 326.020(3) and 326.060.
(e) The administrative regulation that the Kentucky Board of Ophthalmic Dispensers intends to promulgate will amend 201 KAR 13:030. The amendments will clarify existing language dealing with the prescription of contact lens.
(f) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 326.060 allows an ophthalmic dispenser holding a license to fit contact lenses under the supervision of a physician, osteopath or optometrist. The function of this administrative regulation amendment is to establish the procedures for the fitting of contact lenses.
(g) The benefit expected from this administrative regulation is that the regulation will enable the board to establish the procedures for fitting of contact lenses by licensees.
(h) This administrative regulation will be implemented as follows: The board will enforce the requirements of the regulation in the performance of the practice of ophthalmic dispensing by licensees.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 21, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, PO Box 1360, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 326.020(3), 326.035, and 326.040.

(b) The administrative regulation that the Kentucky Board of Ophthalmic Dispensers intends to promulgate will amend 201 KAR 13:040. The amendments will identify the requirements necessary for licensure and application for licensure.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 326.020(3), 326.035, and 326.040 authorize the board to issue licenses to ophthalmic dispensers and apprentice ophthalmic dispensers. The function of this administrative regulation amendment is to establish the procedures for applying for licensure and the criteria for qualifying for licensure.

(d) The benefit expected from this administrative regulation is that the regulation will enable the board to set out the procedures and qualifications for applying for licensure and the requisite examinations.

(e) This administrative regulation will be implemented as follows: Applicants for licensure will be required to meet the specifications of the regulation, and the board will administer the regulation.

July 13, 2000
(1) 201 KAR 13:050. Apprentices.

(2) The Kentucky Board of Ophthalmic Dispensers intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky.

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

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

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 1360, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 326.020(3).

(b) The administrative regulation that the Kentucky Board of Ophthalmic Dispensers intends to promulgate will amend 201 KAR 13:050. The amendments will identify the requirements for applying for licensure as an apprentice ophthalmic dispenser license and the requirements for supervision and training of an apprentice.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 326.020 and 326.035 authorize the board to promulgate regulations controlling the licensure and activities of an apprentice ophthalmic dispenser. The function of this administrative regulation amendment is to establish the guidelines for licensure and practice as an apprentice ophthalmic dispenser.

(d) The benefit expected from this administrative regulation is that the regulation will enable the board to set out the requirements for apprentice ophthalmic dispensers and their supervisors.

(e) This administrative regulation will be implemented as follows: Applicants for licensure as an apprentice ophthalmic dispenser will be required to meet the specifications of the regulation, and the board will administer the regulation.

July 13, 2000
(1) 201 KAR 13:055. Continuing education requirements.

(2) The Kentucky Board of Ophthalmic Dispensers intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky.

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

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

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 1360, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

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

(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 Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(c) 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 326.020(3).

(b) The administrative regulation that the Kentucky Board of Ophthalmic Dispensers intends to promulgate will amend 201 KAR 13:055. The amendments will identify the basic requirements, methods of accreditation, and manner of reporting for continuing education.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 326.020 and 326.0080 authorize the board to promulgate regulations establishing a continuing education program for ophthalmic dispenser licensees and apprentice ophthalmic dispenser licensees. This administrative regulation will set forth the basic requirements, methods of accreditation, and manner of reporting continuing education hours.

(d) The benefit expected from this administrative regulation is that the regulation will enable the board to set out the procedures for obtaining continuing education hours.

(e) This administrative regulation will be implemented as follows: Applicants for renewal of licensure as an apprentice ophthalmic dispenser and as an ophthalmic dispenser will be required to meet the specifications of the regulation, and the board will administer the regulation.

July 13, 2000

1. 201 KAR 13:060. Military service; reciprocity.

2. The Kentucky Board of Ophthalmic Dispensers intends to promulgate an administrative regulation governing the subject matter listed above.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky.

(a) The public hearing will be held if:

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

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

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

(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, PO Box 1360, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

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

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

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

(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 Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(c) 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 326.020(3).

(b) The administrative regulation that the Kentucky Board of Ophthalmic Dispensers intends to promulgate will amend 201 KAR 13:060. The amendments will identify the requirements necessary for persons licensed in other states and in the military to qualify for licensure in Kentucky.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 326.020 authorizes the board to promulgate regulations regarding licensure. This administrative regulation will set forth the basic requirements for renewal of licenses by members of the military service and to provide for reciprocity between the states.

(d) The benefit expected from this administrative regulation is that the regulation will enable the board set out the procedures for renewal of licenses by members of the military service and to set out the requirements of persons licensed in other states to obtain licenses in Kentucky.

(e) This administrative regulation will be implemented as follows: Persons who are within the classifications identified in the regulation will be required to meet the specifications of the regulation, and the board will administer the regulation.

KENTUCKY BOARD OF VETERINARY EXAMINERS

July 13, 2000

1. 201 KAR 16:100. Examination.

2. The Kentucky Board of Veterinary Examiners intends to promulgate an administrative regulation governing the subject matter listed above.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 11 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky.

(a) The public hearing will be held if:

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

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

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

(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, PO Box 1360, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

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

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

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

(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 Nancy Black at the above address, or by calling (502) 564-
3298 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation establishing examination requirements is KRS 321.193.
(b) The new administrative regulation that the Kentucky Board of Veterinary Examiners intends to promulgate will identify the examination on which applicants will be required to obtain a passing score to be licensed in Kentucky.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 321.193 authorizes the board to set out in an examination regulation the examination that the board will require for licensure. This administrative regulation establishes the examination requirements for obtaining a license to practice veterinary medicine in Kentucky.
(d) The benefit expected from this administrative regulation is that the board will identify the examination required to obtain a license to practice veterinary medicine in Kentucky.
(e) This administrative regulation will be implemented as follows: Applicants for licensure will be required to achieve a passing score on the designated examination for licensure in Kentucky.

BOARD OF NURSING

June 19, 2000
(1) 201 KAR 20:056. Advanced registered nurse practitioner registration, program requirements, recognition of a national certifying organization.

(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(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 is not received at least 10 days prior to August 22, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8205.
(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(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.

(6) Persons who wish to file this request may obtain a request form from Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: To require a master's degree for all advanced registered nurse practitioners.

(d) The benefits expected from the administrative regulation are: Uniform educational requirements for advanced registered nurse practitioners.

(e) The administrative regulation will be implemented as follows: Through normal agency procedures.

June 18, 2000
(1) 201 KAR 20:057. Scope and standards of practice of advanced registered nurse practitioners.

(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(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 is not received at least 10 days prior to August 22, 2000, the public hearing will be cancelled.

(5) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.

(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(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.

(6) Persons who wish to file this request may obtain a request form from Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: To remove an unnecessary provision.

(d) The benefits expected from the administrative regulation are: To update the administrative regulation to conform to the statutes.

(e) The administrative regulation will be implemented as follows: Through the normal agency procedures.
June 19, 2000

(1) 201 KAR 20:070. Licensure by examination.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(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 is not received at least 10 days prior to August 22, 2000, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.

(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(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 Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: To comply with KRS 194A.540.
(d) The benefits expected from the administrative regulation are: Specify the requirements of KRS 194A.540.
(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

June 19, 2000

(1) 201 KAR 20:095. Inactive nurse licensure status.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(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 is not received at least 10 days prior to August 22, 2000, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.

(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(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 Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: To comply with KRS 194A.540.
(d) The benefits expected from the administrative regulation are: Specify the requirements of KRS 194A.540.
(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

June 19, 2000
(1) 201 KAR 20:215. Contact hours, record keeping and reporting requirements for renewal of licensure.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(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 is not received at least 10 days prior to August 22, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.
(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(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.
(6) Persons who wish to file this request may obtain a request form from Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: To conform to changes in the statute.
(d) The benefits expected from the administrative regulation are: To implement the changes in the statute by expanding the methods of validating continued competency.
(e) The administrative regulation will be implemented as follows: Through normal agency procedures.

June 19, 2000
(1) 201 KAR 20:220. Provider approval.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(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 is not received at least 10 days prior to August 22, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.
(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(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.
(6) Persons who wish to file this request may obtain a request form from Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: To clarify what is needed for a continuing education provider.
(d) The benefits expected from the administrative regulation are: More clarity for providers and improved standards.
(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

June 19, 2000
(1) 201 KAR 20:225. Reinstatement of license.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(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 is not received at least 10 days prior to August 22, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.
(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(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.
(6) Persons who wish to file this request may obtain a request form from Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
2. "I will not attend the public hearing."
(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 Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(c) Information relating to the proposed administrative regulation.
(d) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(e) The administrative regulation that the Board of Nursing intends to promulgate amends an existing regulation.
(f) The necessity and function of the proposed administrative regulation is as follows: To comply with KRS 194A.540.
(g) The benefits expected from the administrative regulation are: Specify the requirements of KRS 194A.540.
(h) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

June 19, 2000
(1) 201 KAR 20:240. Fees for applications and for service.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(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 is not received at least 10 days prior to August 22, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.
(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing.";
2. "I will not attend the public hearing."
(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 Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: To increase fees for applications and services provided by the board. Fees have not been increased in some time and the board's expenses have greatly increased.
(d) The benefits expected from the administrative regulation are: The continued functioning of the board and fulfillment of statutory obligations.
(e) The administrative regulation will be implemented as follows: Through normal agency procedures.

June 19, 2000
(1) 201 KAR 20:260. Organization and administration standards for prelicensure programs of nursing.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(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 is not received at least 10 days prior to August 22, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.
(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing.";
2. "I will not attend the public hearing."
(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 Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: To assure that program of nursing's nurse administrator has sufficient time to perform administrative duties.
(d) The benefits expected from the administrative regulation are: Proper functioning of a program of nursing.
(e) The administrative regulation will be implemented as follows: Through normal agency procedures.

June 19, 2000
(1) 201 KAR 20:450. Alternative program.
(2) The Board of Nursing intends to promulgate 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 August 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.
(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 is not received at least 10 days prior to August 22, 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone: (502) 329-7009, fax: (502) 329-8206.

(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."

(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.

(6) Persons who wish to file this request may obtain a request form from Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.
(b) The administrative regulation that the Board of Nursing intends to promulgate creates a new administrative regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: It will provide for procedures for the implementation of an alternative program.
(d) The benefits expected from the administrative regulation are: The implementation of an alternative program for impaired nurses will be created and operated by the Board of Nursing.
(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the board.

KENTUCKY REAL ESTATE APPRAISERS BOARD

July 13, 2000
(1) 201 KAR 30:010. Definitions for 201 KAR Chapter 30.

(2) The Kentucky Real Estate Appraisers Board intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 9 a.m., at 1025 Capital Center Drive, Suite 100, 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 August 21, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Sam E. Blackburn, Executive Director, Kentucky Real Estate Appraisers Board, 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky 4060-8205, Telephone No. (502) 573-0091, TelexFax No. (502) 573-0093.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form by writing to Sam E. Blackburn at the above address, or by calling (502) 573-0091 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 324A.035.

(b) The administrative regulation that the Kentucky Real Estate Appraisers Board intends to promulgate will amend 201 KAR 30:010. The amendment will set forth definitions for 201 KAR Chapter 30.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 331 through 3351), KRS Chapter 324A to establish policies and procedures, and to protect the public. The function of this administrative regulation is to define the terms used in 201 KAR Chapter 30.

(d) The benefit expected from this administrative regulation is that the board will define terms contained in 201 KAR Chapter 30.

(e) This administrative regulation will be implemented as follows: The board will use the definitions set forth in this administrative regulation in administering 201 KAR Chapter 30.

July 13, 2000
(1) 201 KAR 30:030. Types of appraisers required in federally-related transactions; certification and licensure.

(2) The Kentucky Real Estate Appraisers Board intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 9 a.m., at 1025 Capital Center Drive, Suite 100, 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 August 21, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Sam E. Blackburn, Executive Director, Kentucky Real Estate Appraisers Board, 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky 4060-8205, Telephone No. (502) 573-0091, TelexFax No. (502) 573-0093.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(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 Sam E. Blackburn at the above address, or by calling (502) 573-0091 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 324A.035 and 324A.035.

(b) The administrative regulation that the Kentucky Real Estate Appraisers Board intends to promulgate will amend 201 KAR 30:030. The amendment will identify the types of appraisers required in federally-related transactions, the scope of practice, and general requirements for certification or licensure.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 through 3351), KRS Chapter 324A to establish policies and procedures, and to protect the public. The function of this administrative regulation is to establish the

1. Types of appraisers required in federally related transactions;
2. Scope of the practice; and
3. General requirements for certification or licensure.

(d) The benefit expected from this administrative regulation is that the board will identify the types of appraisers, the scope of practice, and the requirements for certification or licensure for the use of prospective and current license holders.

(e) This administrative regulation will be implemented as follows: Licensees and certificate holders will be required to follow the requirements of the regulation, and the board will enforce the regulation.

July 13, 2000

(1) 201 KAR 30:040. Standards of practice.

(2) The Kentucky Real Estate Appraisers Board intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 9 a.m., at 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky.

(a) The public hearing will be held if:

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

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

(c) Persons who wish to file this request may obtain a request form by writing to Sam E. Blackburn at the above address, or by calling (502) 573-0091 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 324A.035(3)(d), 12 CFR 225.64, 225.65, 12 USC 3331, 3333, 3339.

(b) The administrative regulation that the Kentucky Real Estate Appraisers Board intends to promulgate will amend 201 KAR 30:040. The amendment will identify standards for the practice of real estate appraisals in Kentucky.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 324A.035(3)(d) requires the board to establish by administrative regulation standards of professional appraisal practice. 12 USC 3331, 3333, and 3339 and 12 CFR 225.64 and 225.65 require that real estate appraisals in connection with federally-related transactions be performed in accordance with appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. This administrative regulation establishes the standards of professional practice. This administrative regulation establishes requirements that are no more stringent than the federal law requirements.

(d) The benefit expected from this administrative regulation is that the board will identify the standards of practice for appraisers.

(e) This administrative regulation will be implemented as follows: Licensees and certificate holders will be required to follow the requirements of the regulation, and the board will enforce the regulation.

July 13, 2000

(1) 201 KAR 30:050. Examination, education, and experience requirement.

(2) The Kentucky Real Estate Appraisers Board intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 9 a.m., at 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky.

(a) The public hearing will be held if:

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

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

(c) Persons who wish to file this request may obtain a request form by writing to Sam E. Blackburn at the above address, or by calling (502) 573-0091, Telefax No. (502) 573-0093.

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

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

(5)(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.

- 297 -
(b) Persons who wish to file this request may obtain a request form by writing to Sam E. Blackburn at the above address, or by calling (502) 573-0091 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 324A.020, 324A.035(1), (3), and 324A.040(2).

(b) The administrative regulation that the Kentucky Real Estate Appraisers Board intends to promulgate will amend 201 KAR 30:050. The amendment will identify the examination, education, and experience requirements for appraisers of real property in federally-related transactions. The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 324A.035(1) requires the board to establish by administrative regulation requirements for certification or licensure of appraisers of real property in federally-related transactions. KRS 324A.035(3)(d), (e), and (f) requires the board to establish by administrative regulations requirements for experience, examination of applicants, and the continuing education of appraisers. Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 USC 3331-3351, establishes requirements for certification or licensure of appraisers of real property in federally-related transactions which this administrative regulation establishes the examination, education, and experience requirements for appraisers of real property in federally-related transactions.

(c) The benefit expected from this administrative regulation is that the board will identify the examination, education, and experience requirements for applicants for certification and licensure appraisers and renewals.

(e) This administrative regulation will be implemented as follows: Licensees and certificate holders will be required to follow the requirements of the regulation, and the board will enforce the regulation.

July 13, 2000
(1) 201 KAR 30:060. Fees administrative regulation.
(2) The Kentucky Real Estate Appraisers Board intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 9 a.m., at 1025 Capital Center Drive, Suite 100, 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 August 21, 2000, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Sam E. Blackburn, Executive Director, Kentucky Real Estate Appraisers Board, 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky 4060-8205, Telephone No. (502) 573-0091, Telefax No. (502) 573-0093.
(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."
2. "I will not attend the public hearing."
(c) 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.
(d) Persons who wish to file this request may obtain a request form by writing to Sam E. Blackburn at the above address, or by calling (502) 573-0091 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 324A.040, 324A.045, and 324A.065.
(b) The administrative regulation that the Kentucky Real Estate Appraisers Board intends to promulgate will amend 201 KAR 30:060. The amendment will establish the fees for certification or licensure in Kentucky.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 through 3351), KRS Chapter 324A to set policies and procedures and to protect the public. The function of this administrative regulation is to establish the fees for initial application, annual renewal, roster, and examination, both for federally and nonfederally related transactions.
(d) The benefit expected from this administrative regulation is that the board will identify the fees for initial application and annual renewal of certification.

(e) This administrative regulation will be implemented as follows: Applicants will be required to remit the required fees to the board.

July 13, 2000
(1) 201 KAR 30:110. Appraiser roster, transmission, fees, deletions, notification, and hearing.
(2) The Kentucky Real Estate Appraisers Board intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 9 a.m., at 1025 Capital Center Drive, Suite 100, 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 August 21, 2000, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Sam E. Blackburn, Executive Director, Kentucky Real Estate Appraisers Board, 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky 4060-8205, Telephone No. (502) 573-0091, Telefax No. (502) 573-0093.
(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing."
2. "I will not attend the public hearing."
(c) 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.
(d) Persons who wish to file this request may obtain a request form by writing to Sam E. Blackburn at the above address, or by calling (502) 573-0091 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

KRS 324A.020.

(b) The administrative regulation that the Kentucky Real Estate Appraisers Board intends to promulgate will amend 201 KAR 30:110. The amendment will reduce the annual roster fee required by the board.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 through 3351), to set standards, and to protect the public. The function of this administrative regulation is to establish the roster of licensees and certificate holders required by FREGA, the fees associated with the roster, and the process for deleting persons from the roster.

(d) The benefit expected from this administrative regulation is that the board will lower the annual roster fee.

(e) This administrative regulation will be implemented as follows: The board will administer the requirements of the regulation.

July 13, 2000

(1) 201 KAR 30:120. Temporary appraisal licenses and certificates.

(2) The Kentucky Real Estate Appraisers Board intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 9 a.m., at 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky.

(a) The public hearing will be held if:

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

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

(5) Persons wishing to request a public hearing should mail their written requests to the following address: Sam E. Blackburn, Executive Director, Kentucky Real Estate Appraisers Board, 1025 Capital Center Drive, Suite 100, Frankfort, Kentucky 40601-8206, Telephone No. (502) 575-0091, Telefax No. (502) 573-0093.

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Sam E. Blackburn at the above address, or by calling (502) 573-0091 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 324A.020, 324A.035(1), (3), 324A.065, and 324A.075.

(b) The Kentucky Real Estate Appraisers Board intends to promulgate will amend 201 KAR 30:120. The amendment will identify the process and requirements for obtaining a temporary appraisal license and certificate.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 324A.035(1) requires the board to establish by administrative regulation requirements for certification or licensure of appraisers of real property in federally-related transactions. KRS 324A.035(3) (d), (e), and (f) requires the board to establish by administrative regulations requirements for experience, examination of applicants, and the continuing education of appraisers. KRS 324A.055(1) authorizes the board to establish fees. KRS 324A.075 authorizes the board to establish requirements for reciprocity. Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 USC 3331-3351, establishes requirements for certification or licensure of appraisers of real property in federally-related transactions. This administrative regulation establishes the requirements for temporary appraisal licenses and certificates.

(d) The benefit expected from this administrative regulation is that the board will identify the requirement for obtaining temporary licenses and certificates.

(e) This administrative regulation will be implemented as follows: Applicants for temporary licenses and certificates will be required to follow the procedures in the regulation, and the board will administer the requirements of the regulation.

KENTUCKY BOARD OF LICENSURE FOR MARRIAGE AND FAMILY THERAPISTS

July 12, 2000

(1) 201 KAR 32:070. Complaint procedure.

(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 August 30, 2000 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.

(a) The public hearing will be held if:

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 30, 2000 the public hearing will be canceled.

(5) 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, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, Phone: (502) 564-3256, Fax: (502) 564-4618.

(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."

(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 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 a complaint procedure is KRS 335.325, 335.348, and 335.340(1)(b).
(b) The administrative regulation the Board of Licensure for Marriage and Family Therapists intends to promulgate will establish procedures for the filing, evaluation, and disposition of administrative complaints.

(c) The necessity and function of the proposed administrative regulation is to set forth the enforcement procedures that the board will follow when disciplinary action is to be taken against a licensee.

(d) The benefit expected from this administrative regulation is increased clarity of the complaint procedures utilized by 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.

KENTUCKY BOARD OF LICENSURE AND CERTIFICATION FOR DIETITIANS AND NUTRITIONISTS

July 3, 2000

(1) 201 KAR 33:015. Application; approved programs.

(2) The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists 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 August 30, 2000 at 8 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.

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

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

(5)(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 application process is KRS 310.041(1).

(b) The administrative regulation the Board of Licensure and Certification for Dietitians and Nutritionists intends to promulgate will establish the requirements for an applicant for licensure as a dietitian or certification as a nutritionist.

(c) The necessity and function of the proposed administrative regulation is to set forth in detail the procedures for applying for licensure and certification, as required by KRS 310.041.

(d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Licensure and Certification for Dietitians and Nutritionists.

(e) The Division of Occupations and Professions will implement the regulation. The implementing body will merely adhere to the standards as outlined in the regulation.

July 3, 2000

(1) 201 KAR 33:060. Supervision.

(2) The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists 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 August 30, 2000 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.

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

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

(5)(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 application process is KRS 310.041(1) and 310.070(2).

(b) The administrative regulation the Board of Licensure and Certification for Dietitians and Nutritionists intends to promulgate will establish the requirements for supervision of unlicensed persons performing dietary services.

(c) The necessity and function of the proposed administrative regulation is to set forth in detail the procedures for dietitians when they are supervising unlicensed individuals.

(d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Licensure and Certification for Dietitians and Nutritionists.

- 300 -
VOLUME 27, NUMBER 2 — AUGUST 1, 2000

sure and Certification for Dietitians and Nutritionists.
   (e) The Division of Occupations and Professions will implement the regulation. The implementing body will merely adhere to the standards as outlined in the regulation.

KENTUCKY BOARD OF CERTIFICATION FOR PROFESSIONAL COUNSELORS

July 14, 2000
   (1) 201 KAR 36:020. Fees - renewal date.
   (2) The Kentucky Board of Certification for Professional Counselors intends to promulgate an administrative regulation governing the subject matter listed above.
   (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 2 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 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 August 21, 2000, the public hearing will be canceled.
   (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, PO Box 456, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.
       (b) On request for public hearing, a person shall state:
           1. "I agree to attend the public hearing;" or
           2. "I will not attend the public hearing."
   (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
       (b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
   (7) Information relating to the proposed administrative regulation.
       (a) The statutory authority for the promulgation of administrative regulations relating to the subject matter is KRS 335.515(3) and 335.525(2).
       (b) The administrative regulation that the Kentucky Board of Certification for Professional Counselors intends to promulgate will amend 201 KAR 36:020 to specify the fees required for certification.
       (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 335.515(3) and 335.525(2) requires the board to promulgate administrative regulations relating to the establishment of fees. This administrative regulation establishes the application, renewal, and reinstatement fees for a professional counselor and a professional counselor associate and the date that certification must be renewed.
       (d) The benefit expected from these administrative regulations is that fees required for certification and necessary to administer the board will be identified.
       (e) The administrative regulations will be implemented as follows: Persons applying for certification and renewal will be required to remit the prescribed fees.

KENTUCKY BOARD OF INTERPRETERS FOR THE DEAF AND HARD OF HEARING

July 14, 2000
   (1) 201 KAR 39:010. Definitions.
   (2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 30, 2000 at 11 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
       (a) The public hearing will be held if:
           1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
           2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
       (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 30, 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, Berry Hill Annex, Suite 2, 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 on definitions is KRS 309.304(3).
       (b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will define the terms used throughout this chapter.
       (c) The necessity and function of the proposed administrative regulation is to ensure that everyone who reads this chapter understands the terms which are used throughout.
       (d) The benefit expected from this administrative regulation is increased clarity of the language utilized throughout the by the Board of Interpreters for the Deaf and Hard of Hearing.
       (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.
July 14, 2000

(1) 201 KAR 39:020. Board members expenses.
(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 30, 2000 at 12 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 30, 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, Berry Hill Annex, Suite 2, 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 board members expenses is KRS 309.302(5) and 309.304(3).
(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for the reimbursement of actual and necessary expenses of board members.
(c) The necessity and function of the proposed administrative regulation is to set forth the procedures by which board members will be reimbursed.
(d) The benefit expected from this administrative regulation is increased clarity of the reimbursement process utilized by the Board of Interpreters for the Deaf and Hard of Hearing.
(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000

(1) 201 KAR 39:030. Application; qualifications for licensure; certification levels.
(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 30, 2000 at 1 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 30, 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, Berry Hill Annex, Suite 2, 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 application process, qualifications for licensure, and the requisite certification levels, is KRS 309.304(1), (3), and 309.312(1)(b), (2).
(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for application, and qualifications for licensure including the requisite level of certification from a nationally recognized organization.
(c) The necessity and function of the proposed administrative regulation is to set forth the qualifications for licensure that the board will require when determining whether an applicant is qualified for licensure.
(d) The benefit expected from this administrative regulation is increased clarity of the application process utilized by the Board of Interpreters for the Deaf and Hard of Hearing.
(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

10 days prior to August 30, 2000 the public hearing will be canceled.

(a) Person 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, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4618.

(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."

(c) 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.

(d) 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 fees is KRS 309.304(3), 309.312(1)(a), and 309.314(1), (2), (4).

(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish fees for application, renewal and reinstatement of licenses.

(c) The necessity and function of the proposed administrative regulation is to set forth the procedures for the payment of licensure fees.

(d) The benefit expected from this administrative regulation is increased clarity of the fee structure utilized by the Board of Interpreters for the Deaf and Hard of Hearing.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000

(1) 201 KAR 39:050. Renewals.

(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 30, 2000 at 3 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 30, 2000 the public hearing will be canceled.

(c) 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, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4618.

(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."

(d) 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.

(e) 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 renewal process is KRS 309.304(3), (5) and 309.314(1), (2), (3), (5), (7).

(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for the renewal of licenses.

(c) The necessity and function of the proposed administrative regulation is to set forth the procedures that the board will follow when a licensee renews their license.

(d) The benefit expected from this administrative regulation is increased clarity of the renewal process utilized by the Board of Interpreters for the Deaf and Hard of Hearing.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000

(1) 201 KAR 39:060. Reinstatement.

(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 31, 2000 at 8 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 2000 the public hearing will be canceled.

(c) 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, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4618.

(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."

(d) 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.

(e) 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 renewal process is KRS 309.304(3), (5) and 309.314(1), (2), (3), (5), (7).

(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for the renewal of licenses.

(c) The necessity and function of the proposed administrative regulation is to set forth the procedures that the board will follow when a licensee renews their license.

(d) The benefit expected from this administrative regulation is increased clarity of the renewal process utilized by the Board of Interpreters for the Deaf and Hard of Hearing.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

- 303 -
address above.

(7) Information relating to the proposed regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the reinstatement process is KRS 309.304(3), and 309.314(4), (6), (7).
(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for the reinstatement of licenses.
(c) The necessity and function of the proposed administrative regulation is to set forth the procedures that the board will follow when an applicant seeks reinstatement of their license.
(d) The benefit expected from this administrative regulation is increased clarity of the reinstatement process utilized by the Board of Interpreters for the Deaf and Hard of Hearing.
(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000
(1) 201 KAR 39:070. Temporary license.
(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 31, 2000 at 9 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
(a) The public hearing will be held if:
1. A request is received, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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, Berry Hill Annex, Suite 2, 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."
(c) KS 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.
(d) 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 temporary licenses is KRS 309.304(3) and 309.312(3).
(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for applying for a temporary license.
(c) The necessity and function of the proposed administrative regulation is to set forth the procedures that the board will follow when an applicant submits a request for a temporary license.
(d) The benefit expected from this administrative regulation is increased clarity of the application process for temporary licenses utilized by the Board of Interpreters for the Deaf and Hard of Hearing.
(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000
(1) 201 KAR 39:080. Reciprocity.
(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 31, 2000 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
(a) The public hearing will be held if:
1. A request is received, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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, Berry Hill Annex, Suite 2, 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."
(c) KS 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.
(d) 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 reciprocity is KRS 309.304(3) and 309.312(4).
(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for applying for and receiving reciprocity.
(c) The necessity and function of the proposed administrative regulation is to set forth the procedures that the board will follow when a person licensed in another state applies for a license in Kentucky.
(d) The benefit expected from this administrative regulation is increased clarity of the application process for reciprocity utilized by the Board of Interpreters for the Deaf and Hard of Hearing.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000

(1) 201 KAR 39:090. Continuing education.
(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 31, 2000 at 11 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
   (a) The public hearing will be held if:
       1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
       2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
   (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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, Berry Hill Annex, Suite 2, 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 continuing education is KRS 309.304(3), (5), and 309.314(7).
   (b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish requirements for continuing education.
   (c) The necessity and function of the proposed administrative regulation is to set forth the procedures that the board will follow when approving and reviewing continuing education programs and setting the requirements for continuing education hours expected of licensees.
   (d) The benefit expected from this administrative regulation is increased clarity of the continuing education program implemented by the Board of Interpreters for the Deaf and Hard of Hearing.
   (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000

(1) 201 KAR 39:100. Complaint procedure.
(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 31, 2000 at 1 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
   (a) The public hearing will be held if:
       1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
       2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
   (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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, Berry Hill Annex, Suite 2, 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 a complaint procedure is KRS 309.304(3), (4), (6).
   (b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish procedures for filing, evaluation, and disposition of administrative complaints.
   (c) The necessity and function of the proposed administrative regulation is to set forth the enforcement procedures that the board will follow when disciplinary action is to be taken against a licensee.
   (d) The benefit expected from this administrative regulation is increased clarity of the complaint procedures utilized by the Board of Interpreters for the Deaf and Hard of Hearing.
   (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the process as outlined in the regulation.

July 14, 2000

(1) 201 KAR 39:110. Classification of offenses; recommended board action
(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 31, 2000 at 2 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.
   (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

- 305 -
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, Phone: (502) 594-3296, Fax: (502) 594-4818.

(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 classification of offenses and the recommended action is KRS 309.304(3) and 309.318(1).

(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will establish a classification system of offenses and recommended board action as required by statute.

(c) The necessity and function of the proposed administrative regulation is to set forth the types of offenses for which disciplinary action could be taken against a licensee and recommend the action that the board will follow.

(d) The benefit expected from this administrative regulation is increased clarity of the types of actions by licensees that may give rise to the filing of a complaint.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the classifications outlined in the regulation.

July 14, 2000

(1) 201 KAR 39:120. Code of ethics.

(2) The Kentucky Board of Interpreters for the Deaf and Hard of Hearing 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 August 31, 2000 at 3 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, Phone: (502) 594-3296, Fax: (502) 594-4818.

(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 a code of ethics is KRS 309.304(3) and 309.318(1)(f).

(b) The administrative regulation the Board of Interpreters for the Deaf and Hard of Hearing intends to promulgate will incorporate the national Code of Ethics.

(c) The necessity and function of the proposed administrative regulation is to set forth the code of ethics that the board will require all licensees to abide by.

(d) The benefit expected from this administrative regulation is increased clarity of the conduct of behavior that is expected of licensees.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the code as outlined in the regulation.

June 30, 2000

(1) 501 KAR 6:020, Department of Corrections.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 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 August 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 Bigge, Staff Attorney, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Telephone Number (502) 594-2024, Facsimile Number (502) 594-6494.

-306-
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.
(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:020, as follows:
1. Employee Insurance Coverage (CPP 3.18) is a new policy which clarifies the types and amounts of insurance coverage provided Corrections' employees.
2. Operation and Safety of Corrections Firing Ranges (CPP 4.6) shall be amended to: comply with the requirements of KRS Chapter 13A; permit the use of a cell phone in certain circumstances; and reflect actions to take if weapons are being fired from the tower of the range house.
3. Fire Safety (CPP 8.2) shall be revised to: comply with KRS Chapter 13A requirements; exclude plastic materials from use in construction or improvements; and specify how to arrange and store flammable liquids.
4. Transportation of Inmates to Funerals or Bedside Visits (CPP 9.4) shall be amended to comply with KRS Chapter 13A requirements and to require that inmates be transported in jumpsuits.
5. Special Management Inmates (CPP 10.2) shall be amended to conform to the requirements of KRS Chapter 13A, to set forth a personal observation schedule for special management inmates, include notification of the recently implemented Regional Director position of unit emergencies or serious disorders and cross-reference relevant CPPs.
6. Health Maintenance Services (CPP 13.2) shall be amended to conform to KRS Chapter 13A requirements and to provide for referrals to a specialist by the primary care physician.
7. Sex Offender Treatment Program (CPP 13.6) shall be amended to: conform to KRS Chapter 13A requirements; place a limit on the number of participants per offender rehabilitation specialist; increase the time frame for reapplication to the program; cite the appropriate statutory provision governing confidentiality of communications made in the program; delineate the correct psychoeducational courses to be presented; and set forth the appropriate personnel to rule on recommendations for termination from the program.
8. Serious Infectious Disease (CPP 13.10) shall be amended to: conform to KRS Chapter 13A requirements; amend the definitions of environmental controls and serious infectious disease; clarify the policy statement; and emphasize the need to reduce exposure.
9. Inmate Grievance Procedure (CPP 14.6) shall be amended to clarify the time frame a grievant has for filing and that Corrections' staff is required to respond.
10. Meritorious Good Time (CPP 15.3) shall be amended to accurately reflect how meritorious good time may be earned and calculated for a sex offense committed on or after July 15, 1998.
11. Inmate Account Restriction (CPP 15.7) shall be amended to: comply with KRS Chapter 13A requirements; limit the number of money orders an inmate may receive from an individual in a calendar month; and, provide a percentage which may be frozen in an inmate's account.
12. Inmate Access to Telephones (CPP 16.3) shall be amended to add the definition of immediate family and clarify what an emergency telephone call means.
13. Inmate Packages (CPP 16.4) shall be amended to delete some personal clothing items and specify the permissible colors of other items.
14. Inmate Personal Property (CPP 17.1) shall be amended to: conform to KRS Chapter 13A requirements; provide definitions; provide for issuance of state clothing, with precise descriptions of the color and type; set forth an inmate dress code; implement a procedure for replacement of state issued clothing; and provide the means for inmates to obtain some personal clothing and a surge protector.
15. Placement for Residential Mental Health Treatment (CPP 18.11) shall be amended to: comply with KRS Chapter 13A requirements; substitute residential treatment for intensive services; update the procedures for referrals which require transfers; and, provide for consult with appropriate mental health personnel prior to approval of transfer.
16. Referral Procedure for Inmates Adjudicated Guilty but Mentally Ill (CPP 18.12) shall be amended to: comply with the requirements of KRS Chapter 13A; and reflect changes in staff and procedures required for a routine referral.
17. Duties of Probation and Parole Officers (CPP 27-02-01) shall be amended to: comply with KRS Chapter 13A; and, clarify the authority of a probation and parole officer to make an arrest pursuant to KRS 439.430 and 533.030.
18. Intensive Supervision (CPP 27-11-01) shall be deleted as the program is being discontinued.
19. Grievance Procedures For Offenders (CPP 27-12-06) shall be amended to: comply with KRS Chapter 13A; and, amend the policy statement to preclude retaliation against an offender for filing a grievance.
20. Supervision Reports, Violations and Unusual Incidents (CPP 27-15-01) shall be amended to: comply with KRS Chapter 13A; delete references to major or minor violations; and require submission of supervision reports to a supervisor simultaneously with the court's copy.
21. Confined Program Subject Electronic Monitoring (CPP 27-15-02) shall be deleted due to loss of federal funding for the program.
22. Division of Probation and Parole Controlled Intake Program (CPP 27-20-01) shall be amended to: comply with KRS Chapter 13A; delete information contained in CPP 25-01-01 and 27-21-01; and clarify the appropriate document to be signed by the offender prior to release.
(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 Department of Corrections to comply with KRS Chapter 13A and to reflect current operating procedures.
(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.
(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

July 12, 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 August 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 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, PO Box 2400, Frankfort, Kentucky 40602-2400, Telephone Number (502) 564-2024, Facsimile Number (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."

(5)(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. Expense Reimbursement (KCIW 03-01-01) shall be amended to update policy to bring the policy into compliance with Corrections Policies and Procedures.
2. General Guidelines for Staff (KCIW 03-03-01) shall be amended to conform to LRC specifications and to eliminate duplication with Corrections Policies and Procedures.
3. Inclement Weather and Emergency Conditions (KCIW 03-04-02) shall be amended to reflect current institutional practice.
4. Employee Grievance Procedure (KCIW 03-05-01) shall be amended to reflect current practice and to bring the policy into compliance with Corrections Policies and Procedures.
5. Employee Handbook (KCIW 03-05-01) shall be deleted due to duplication of information with Corrections Policy and Procedures.
6. Employee Personnel File (KCIW 03-05-01) shall be amended to bring the policy into compliance with Corrections Policies and Procedures.
7. Equal Employment Opportunity (KCIW 03-06-01) shall be deleted due to duplication of information with Corrections Policy and Procedure.
8. Confidentiality of Information (KCIW 03-07-01) shall be deleted due to duplication of information with Corrections Policy and Procedures.
9. Performance Evaluations (KCIW 03-08-01) shall be deleted due to duplication of material with Kentucky Revised Statutes and Evaluation Handbook.
10. Payroll Personnel Manning (KCIW 03-09-01) shall be amended to bring policy into conformity with current departmental organization.
11. Job Announcements (KCIW 03-10-01) shall be amended to eliminate duplication with Kentucky Administrative Regulations.
12. Merit Registers (KCIW 03-11-01) shall be amended to remove duplication with Correction Policy and Procedure and to conform to current institutional practice.
13. Criminal History Checks (KCIW 03-12-01) shall be deleted due to duplication of information in Corrections Policy and Procedure.
14. Kentucky Employee Assistance Program (KCIW 03-13-01) shall be amended to comply with current departmental practice.
15. Time and Attendance (KCIW 03-14-01) shall be deleted due to duplication with Corrections Policy and Procedures.
(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.

July 12, 2000

(1) 501 KAR 6:120, Blackburn Correctional Complex.
(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 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 August 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, PO Box 2400, Frankfort, Kentucky 40602-2400, Telephone Number (502) 564-2024, Facsimile Number (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.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(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 6:120, Blackburn Correctional Complex as follows:

1. Property Inventory (BCC 02-05-01) shall be amended to increase value of an item to $500 for inventoried property and addition of computerized MARS inventory system.

2. Purchasing (BCC 02-06-01) shall be amended to decrease cost of items requiring price quotes, increase cost for construction services for 1 quote and 3 quote requirements.

3. Menu and Special Diets (BCC 11-01-01) shall be amended to delete the wording restricted diets and include special diets, provided as necessary upon approval.

4. Dining Room Guidelines (BCC 11-04-01) shall be amended to comply with and to reflect current operating procedures regarding ADA inmates; deletion of references ACA Standards 3-4301 and 3-4307.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 438.640 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 Blackburn Correctional Complex to comply with KRS Chapter 13A and to reflect current operating procedures.

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

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

Department of Juvenile Justice

July 12, 2000

(1) 505 KAR 1:040, Department of Juvenile Justice Policies and Procedures Manual.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 10 a.m. in the conference room at the Department of Juvenile Justice, 1025 Capital Center Drive, Building #3, Third Floor, 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 August 22, 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: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Capital Complex East, Building #3, Third Floor, Frankfort, Kentucky 40601, Phone (502) 573-2738, Fax (502) 573-0836.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to 505 KAR 1:040, Department of Juvenile Justice Policies and Procedures Manual, is KRS 15A.160, 15A.210, 605.150, 610.267, Chapter 635 et seq., 640.120, 645.250, and the requirements of a consent decree entered December 4, 1995, in United States of America v. Commonwealth of Kentucky, et. al., Civil Action No. 3:95 CV-757-S (W.D. Ky. 1995), as well as EO 96-1576.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate will amend 505 KAR 1:040. It will amend existing policies and procedures of the Department of Juvenile Justice as well as implementing new policies and procedures and some of the provisions of the voluntary consent decree entered into with the Department of Justice to improve conditions for youth housed in 13 residential treatment facilities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 15A.160 authorizes the Department of Juvenile Justice to adopt regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds, and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. This administrative regulation is promulgated to incorporate into regulatory form, by reference, and update materials used by the department in the implementation of a statewide social service program.

(d) The benefits expected from the administrative regulation are: The department will have continued to establish regulatory authority for the current policies and procedures relating to management procedures, support services, benefits to families and children, and youth services, and will have continued to comply with some of the provisions of the voluntary consent decree entered into with the Department of Justice in December 1995 to improve conditions for youth housed in 13 residential treatment facilities.

(e) The administrative regulation will be implemented as follows: Staff will comply with the policies and procedures noted in policy changes.

TRANSPORTATION CABINET

July 14, 2000

(1) 602 KAR 50:010, Definitions relating to 602 KAR Chapter 50.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation relating to airport zoning.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 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 August 23, 2000, the public hearing will be cancelled.
(5)(a) Persons wishing to request a public hearing should contact Charles Harmon 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, Office of General Counsel and Legislative Affairs, 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.
(c) The statutory authority for the promulgation of an administrative regulation relating to airport zoning is KRS 183.011(5) and 183.861.
(d) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 602 KAR 50:010.
(e) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation defines terms used by the Kentucky Airport Commission.
(f) The benefits expected from the administrative regulation are to provide clear policy and procedural guidelines for the Kentucky Airport Zoning Commission.
(g) The administrative regulation will be implemented as follows: By the Transportation Cabinet in accordance with KRS Chapter 13A.
(h) 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 Harmon at the above-mentioned address no later than 10 days prior to the scheduled hearing date.

July 14, 2000
(1) 602 KAR 50:030, Jurisdiction of the Kentucky Airport Zoning Commission.
(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation relating to airport zoning.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 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 August 23, 2000, the public hearing will be cancelled.
(5)(a) Persons wishing to request a public hearing should contact Charles Harmon at: phone (502) 564-7650, fax (502) 564-5238, or e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, Office of General Counsel and Legislative Affairs, 10th Floor, State Office Building, Frankfort, Kentucky 40622.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(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."

(5)(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 airport zoning is KRS 183.861 and 183.867(3).

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 602 KAR 50:060.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: Outlines procedures for the adoption of the airport zoning administrative regulation related to existing and planned airports under the jurisdiction of the commission and to revise airport zoning maps in accordance with KRS 183.861.

(d) The benefits expected from the administrative regulation are to provide clear policy and procedural guidelines for the Kentucky Airport Zoning Commission.

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

(9) 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.

July 14, 2000

(1) 602 KAR 50:060, Construction within jurisdictional airspace.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation relating to airport zoning.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, 10 a.m., local prevailing time, at 501 High Street, 10th Floor, General Counsel Conference Room, State Office Building, Frankfort, Kentucky 40622.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 23, 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) 564-5226, or e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, Office of General Counsel and Legislative Affairs, 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 airport zoning is KRS 183.861 and 183.867(3).

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 602 KAR 50:060.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulations allows the commission to regulate the use of land within and around airports in accordance with KRS 183.861.

(d) The benefits expected from the administrative regulation are to provide clear policy and procedural guidelines for the Kentucky Airport Zoning Commission.

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

(9) 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.

July 14, 2000

(1) 602 KAR 50:070, Standards for determining obstructions.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation relating to airport zoning.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, 10 a.m., local prevailing time, at 501 High Street, 10th Floor, General Counsel Conference Room, State Office Building, Frankfort, Kentucky 40622.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 23, 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) 564-5226, or e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, Office of General Counsel and Legislative Affairs, 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 airport zoning is KRS 183.861 and 183.867.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 602 KAR 50:060.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulations allows the commission to regulate the use of land within and around airports in accordance with KRS 183.861.

(d) The benefits expected from the administrative regulation are to provide clear policy and procedural guidelines for the Kentucky Airport Zoning Commission.

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

(9) 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.
(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 602 KAR 50:070.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 602 KAR 50:070-This administrative regulation establishes standards for determining obstructions to air navigation in accordance to KRS 183.861.

(d) The benefits expected from the administrative regulation are to provide clear policy and procedural guidelines for the Kentucky Airport Zoning Commission.

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

July 14, 2000

(1) 602 KAR 50:090, Permit application procedures.
(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation relating to airport zoning.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, 10 a.m., local prevailing time, at 501 High Street, 10th Floor, General Counsel Conference Room, State Office Building, Frankfort, KY 40622.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 23, 2000, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should contact Charles Harman at: phone (502) 564-7650, fax (502) 564-5238, or e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, Office of General Counsel and Legislative Affairs, 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."

(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.

(c) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to airport zoning is KRS 183.861.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 602 KAR 50:100.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation describes the standards for marking or lighting of structures which penetrate the airspace under jurisdiction of the commission in accordance with KRS 183.861.

(d) The benefits expected from the administrative regulation are to provide clear policy and procedural guidelines for the Kentucky Airport Zoning Commission.

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

July 14, 2000

(1) 602 KAR 50:100, Standards for marking or lighting structures.
(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation relating to airport zoning.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, 10 a.m., local prevailing time, at 501 High Street, 10th Floor, General Counsel Conference Room, State Office Building, Frankfort, Kentucky 40622.

(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 23, 2000, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should contact Charles Harman at: phone (502) 564-7650, fax (502) 564-5238, or e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, Office of General Counsel and Legislative Affairs, 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."

(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.

(c) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to airport zoning is KRS 183.861.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 602 KAR 50:100.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation describes the standards for marking or lighting of structures which penetrate the airspace under jurisdiction of the commission in accordance with KRS 183.861.

(d) The benefits expected from the administrative regulation are to provide clear policy and procedural guidelines for the Kentucky Airport Zoning Commission.

(e) The administrative regulation will be implemented as follows: by the Transportation Cabinet in accordance with KRS Chapter 13A.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000
EDUCATION PROFESSIONAL STANDARDS BOARD

July 2000


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

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 2000, the hearing will be canceled.

5.(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4806, fax (502) 573-1610.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing,"; or
2. "I will not attend the public hearing."

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

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

7. Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishment of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030; for issuing emergency certificates is KRS 161.100; and for defining "out-of-field" teaching is 2000 Kyr. Acts ch. 527, sec. 6.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:120, Emergency certification and out-of-field teaching. The Education Professional Standards Board is amending this regulation to add a section in response to 2000 Ky. Acts ch. 527, sec. 6 which addresses rank and salary provisions for emergency certified teachers. Another new section will be added in response to the same Act to define "out-of-field" teaching.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 161.030 identifies the Education Professional Standards Board as the state education agency with certification authority for Kentucky. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.100 allows the Education Professional Standards Board to issue emergency certificates to persons meeting the qualifications established by the Board. 2000 Ky. Acts ch. 527, sec. 6 changes the rank designations for emergency certified teachers who hold regular teaching certificates in other areas and directs the Education Professional Standards Board to define "out-of-field" teaching.

(d) The benefits expected from administrative regulation are: This administrative regulation will provide local school districts and teachers serving on emergency certificates the procedure by which the Education Professional Standards Board will award rank designations for emergency certificates. The definition of "out-of-field" teaching will assist in the enforcement of state laws governing the assignment of properly qualified professional school personnel and aide data gathering activities related to teacher quality efforts.

(e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the changes, and publications of the Education Professional Standards Board will be updated to reflect the changes.

July 2000


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

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 2000, the hearing will be canceled.

5.(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4806, fax (502) 573-1610.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing,"; or
2. "I will not attend the public hearing."

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

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

7. Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030; for issuing emergency certificates is KRS 161.100; and for defining "out-of-field" teaching is 2000 Kyr. Acts ch. 527, sec. 6.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:210, Substitute teachers and emergency school personnel. The regulation is being amended to expand the Emergency Noncertified School Personnel Program. The amendment will extend the program to allow all Kentucky school districts to participate upon successful application to the EPSB.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 161.030 identifies the Education Professional Standards Board as the state education agency with certification authority for Kentucky. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.100 allows the Education Professional Standards Board to issue emergency certificates to persons meeting the qualifications established by the EPSB.

(d) The benefits expected from administrative regulation are: This administrative regulation will provide local school districts more options in staffing classrooms while guaranteeing that every Kentucky student has a qualified substitute teacher when his/her regular teacher must be absent.
from the instructional setting.

(e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the changes, and publications of the Education Professional Standards Board will be updated to reflect the changes.

July 2000

(1) 704 KAR 20:280. Endorsement for teachers of gifted education.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 2000, the hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:280. Endorsement for teachers of gifted education. The Education Professional Standards Board is amending this regulation to add a probationary plan for receiving the certificate endorsement, which allows teachers to instruct gifted and talented students.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 161.030 identifies the Education Professional Standards Board as the state education agency with certification authority for Kentucky. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate.

(d) The benefits expected from administrative regulation are: This administrative regulation will provide local school districts with greater flexibility in placing qualified staff into gifted education. Teacher education institutions could see more teachers pursuing this certificate endorsement because the probationary plan would allow additional opportunities for teachers who want to work with gifted students. Teachers would have more options for broadening their certification and increasing their expertise.

(e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the changes, and publications of the Education Professional Standards Board will be updated to reflect the changes.

July 2000

(1) 704 KAR 20:500. Certificates for teachers of exceptional children - communication disorders.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 2000, the hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030. The authority to issue two levels of certification to teachers of children with communication disorders is 200 Ky. Acts ch. 375.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:500. Certificates for teachers of exceptional children - communication disorders. The Education Professional Standards Board is amending this regulation to add a certification at the baccalaureate level for teachers in this subject field and clarify the requirements for teachers at the master's level.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 161.030 identifies the Education Professional Standards Board as the state education agency with certification authority for Kentucky. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. 2000 Ky. Acts ch. 375 directs the Education Professional Standards Board to establish certification for teachers of exceptional children - communication disorders at both the baccalaureate and master's level.

(d) The benefits expected from administrative regulation are: This administrative regulation will allow speech language pathology assistants to gain teacher certification and the benefits awarded to teachers. This regulation will clearly delineate the certification requirements for the subject field thereby serving as a guide to teachers, school districts, and teacher education institutions.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

July 2000

(1) 704 KAR 20:706. Admission, placement, and supervision in student teaching.
(2) The Education Professional Standards Board intends to amend the administrative regulation cited above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 2000, the hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for teacher education programs and subsequent certification is KRS 161.028 and 161.030. The authority specifically governing the student teaching portion of the preparation is KRS 161.042.
(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:706, Admission, placement, and supervision of student teaching. The Education Professional Standards Board is amending this regulation to add a section in response to an appropriation in the 2000-2002 Biennial Budget Act providing for the compensation of cooperating teachers who supervise student teachers. The amendment will establish payment procedures as well as update cooperating teacher eligibility requirements.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate and to approve and evaluate teacher preparation programs. KRS 161.030 identifies the Education Professional Standards Board as the state education agency with certification authority for Kentucky and directs the board to issue certificates upon successful completion of the teacher preparation program. KRS 161.042 directs the Education Professional Standards Board to establish the professional competencies for teachers supervising student teachers.
(d) The benefits expected from administrative regulation are: This administrative regulation will provide teacher education institutions with eligibility requirements necessary for the selection of cooperating teachers. Additionally, the regulation will clearly delineate the procedures that must be followed for the equitable distribution of state compensation for cooperating teachers in recognition of their service; these procedures will be useful to the teacher education institutions, cooperating teachers, and local school districts.
(e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the changes, and publications of the Education Professional Standards Board will be updated to reflect the changes.

July 2000

(1) 704 KAR 20:750. Teachers' National Certification Incentive Trust Fund.
(2) The Education Professional Standards Board intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 22, 2000, the hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation governing the Teachers' National Certification Incentive Trust Fund is 2000 Ky. Acts ch. 257.
(b) The administrative regulation that the Education Professional Standards Board intends to promulgate is 704 KAR 20:750, Teachers' National Certification Incentive Trust Fund. The Education Professional Standards Board is promulgating this regulation in response to the passage of 2000 Ky. Acts ch. 257 which established the trust fund. This regulation establishes the procedures for the administration of the fund and eligibility requirements for participants.
(c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 257 directs the Education Professional Standards Board to establish the procedures for administration of the funds and the requirements for participating teachers and local boards of education.
(d) The benefits expected from administrative regulation are: This administrative regulation will provide local school districts and teachers pursuing national board certification with the requirements and procedures for accessing the incentive funds made available by the General As-

July 14, 2000
(1) 790 KAR 1:010, 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 August 25, 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 August 25, 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 administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to definitions under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq. is KRS 151B.020(6).
(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will not amend an existing administrative regulation. It will set forth the definitions applicable to Title 790 of the Kentucky Administrative Regulations, relating to implementation of the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to comply with federal law as set forth in the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
(d) The benefits expected from administrative regulation are: Terms relating to implementation of the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq. will be adequately defined for uniformity.
(e) The Office for Training and Reemployment within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

July 14, 2000

(1) 790 KAR 1:030, Eligibility requirements for training providers.
(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 August 25, 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 August 25, 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) 584-8608, Fax: (502) 584-9990, 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 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 administrative regulation.
   (a) The statutory authority for the promulgation of an administrative regulation relating to eligibility of training providers is KRS 151B.020(6).
   (b) The administrative regulation that the Cabinet for Workforce Development intends to promulgate will not amend an existing administrative regulation. It will set forth the procedures and performance criteria for a training provider to be eligible to provide training services under Title I of the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
   (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to comply with federal law and to provide notice of the confidentiality requirements for information provided by participants under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
(d) The benefits expected from administrative regulation are: Affected parties will have adequate notice of the protection of private data furnished under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
(e) The Office for Training and Reemployment within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

July 14, 2000

(1) 790 KAR 1:040, Confidentiality.
(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 August 25, 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 August 25, 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) 584-8608, Fax: (502) 584-9990, 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 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 administrative regulation.
   (a) The statutory authority for the promulgation of an administrative regulation relating to confidentiality under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq, is KRS 151B.020(6).
   (b) The administrative regulation that the Cabinet for Workforce Development intends to promulgate will not amend an existing administrative regulation. It will set forth confidentiality requirements for information provided by participants under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
   (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to comply with federal law and to provide notice of the confidentiality requirements for information provided by participants under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
(d) The benefits expected from administrative regulation are: Affected parties will have adequate notice of the protection of private data furnished under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.
(e) The Office for Training and Reemployment within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

- 317 -
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

10 days prior to August 25, 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 administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to grievances and appeals under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq, is KRS 151B.020(6).

(b) The administrative regulation that the Cabinet for Workforce Development, intends to promulgate will not amend an existing administrative regulation. It will set forth the grievance and appeals procedures for activities related to the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation is necessary to comply with federal law and to provide notice of the administrative process for resolution of appeals and grievances under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.

(d) The benefits expected from administrative regulation are: Affected parties will have adequate notice of the procedure for resolving appeals and grievances under the Workforce Investment Act of 1998, 29 USC Sec. 2801, et seq.

(e) The Office for Training and Reemployment within the Cabinet for Workforce Development will be responsible for implementing the proposed administrative regulation.

KENTUCKY DEPARTMENT OF WORKERS’ CLAIMS

June 27, 2000

(1) 803 KAR 25:010, Procedure for adjustments of claims.

(2) The Commissioner of the Department of Workers’ Claims intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 10 a.m. at the Department of Workers’ Claims, 1270 Louisville Road, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 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: Department of Workers’ Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, ATTN: Carla H. Montgomery, (502) 564-5550, fax number 564-5934.

(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 Workers’ Claims 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 342.260 and 342.270(7).

(b) The administrative regulation that the Department of Workers Claims intends to promulgate will amend an existing administrative regulation. It will eliminate the arbitrators from the workers’ injury claims process and make changes to comply with HB 992.

(c) The necessity and function of the proposed administrative regulation is as follows: To set forth procedures for workers’ injury claims.

(d) The benefits expected from the administrative regulation are: The department can have a smooth transition by applying the statutory change made in HB 992.

(e) The administrative regulation will be implemented as follows: Administrative law judges handle all aspects of the workers’ injury claims filed with the department.

June 27, 2000

(1) 803 KAR 25:012, Resolution of medical dispute.

(2) The Commissioner of the Department of Workers’ Claims intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 10 a.m. at the Department of Workers’ Claims, 1270 Louisville Road, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 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: Department of Workers’ Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, ATTN: Carla H. Montgomery, (502) 564-5550, fax number 564-5934.

(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 Workers' Claims 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 342.020 and 342.735.

(b) The administrative regulation that the Department of Workers Claims intends to promulgate will amend an existing administrative regulation. It will bring this administrative regulation into compliance with the statutory changes from HB 992.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 342.735(1) requires the Commissioner of Workers' Claims to promulgate regulations to expedite the payment of medical disputes. The amendments will eliminate the arbitrators from this process.

(d) The benefits expected from the administrative regulation are: The administrative regulation will conform to the statutory changes enacted through HB 992 in the 2000 Legislative Session. Language and procedures will be clarified.

(e) The administrative regulation will be implemented as follows: Administrative law judges will now administer the medical dispute. Arbitrators are removed from this process.

June 27, 2000

(1) 803 KAR 25:070, Charges for attorneys.

(2) The Commissioner of the Department of Workers' Claims intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 21, 2000, at 10 a.m. at the Department of Workers' Claims, 1270 Louisville Road, Frankfort, Kentucky 40601.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 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: Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, ATTN: Carla H. Montgomery, (502) 564-5550, fax number 554-5934.

(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 Workers' Claims 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 342.260 and 342.710.

- 319 -
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(b) The administrative regulation that the Department of Workers Claims intends to promulgate will amend an existing administrative regulation, it will bring the regulation into compliance with the statutory changes from HB 592.

(c) The necessity and function of the proposed administrative regulation is as follows: The administrative regulation establishes requirements for the provision of rehabilitation services.

(d) The benefits expected from the administrative regulation are: The administrative regulation will be in compliance with statutory changes.

(e) The administrative regulation will be implemented as follows: Administrative law judges will be administering this regulation. Arbitrators will be eliminated from the process.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance

June 30, 2000

(1) 806 KAR 4:010, Fees and taxes.

(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 August 22, 2000, at 2 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 August 22, 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: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-8332. 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, 304.9-295, 304.4-010, 304.9-260, 1994 Ky. Acts ch. 262, sec 4(4).

(b) The administrative regulation that the department intends to promulgate will amend 806 KAR 4:010.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows Commission of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky insurance. 304.4-010 requires the Commissioner of Insurance to prescribe those services for which fees shall be charged and the amounts of the fees. Under 1994 Ky. Acts ch. 262, sec. 4(4), an administrative agency shall charge fees based on costs for public records used for commercial purposes. HB 875 eliminated the solicitor's license, and established several new licenses. Rental vehicle insurance and specialty credit producers are now required to obtain licensing under HB 354 and HB 595. This amendment is necessary to implement HB 875, HB 354, HB 595. Health maintenance organization agents, and viatical brokers will now be required to meet the requirements of 806 KAR Chapter 9 to obtain licensing. These licenses cannot be processed without fees.

(d) The benefits expected from the administrative regulation are as follows: Reference to a solicitor's license will be removed, and new fee categories will be added.

(e) The administrative regulation will be implemented as follows: 806 KAR 4:010 will be amended.

June 30, 2000

(1) 806 KAR 9:001, Courses of study; instructors.

(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 August 22, 2000, at 2 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 August 22, 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: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-8332. 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.

(b) The administrative regulation that the department intends to promulgate will establish the guidelines for gaining approval for courses of instruction to be completed by each person applying for an insurance license in the Commonwealth, in the light of HB 875, which has substantively changed the parameters for licensing.

(c) The benefits expected from the administrative regulation are as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations to promulgate rules and administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. HB 875 has substantively changed licensing requiring the amendment of this regulation.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(d) The benefits expected from the administrative regulation are as follows: HB 875 has created new categories of licenses which must be included in the administrative regulations dealing with prelicensing training.

(e) The administrative regulation will be implemented as follows: 806 KAR 9:001 will be amended to clarify prelicensing requirements for all types of licenses.

June 30, 2000

(1) 806 KAR 9:005, Repeal of 806 KAR 9:005, Officers of corporations licensed as agents; 806 KAR 9:100, Termination statement; 806 KAR 9:150, Life agents’ training program; 806 KAR 9:170, Minimum score of examination for license; and 806 KAR 9:180, Period for which examination results are valid.

(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 August 22, 2000, at 2 p.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.

(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 August 22, 2000, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO 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".

(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.

(b) The administrative regulation that the department intends to promulgate will repeal 806 KAR 9:005, 806 KAR 9:100, 806 KAR 9:150, 806 KAR 9:170 and 806 KAR 9:180.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations to promulgate rules and administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. HB 875 renders 806 KAR 9:005 unnecessary, hence the Department of Insurance is repealing it. 806 KAR 9:070 has been amended and incorporates the material contained in 806 KAR 9:170 and 806 KAR 9:180 rendering them redundant; an amendment to KRS 304.9-280 codifies the requirements specified in 806 KAR 9:100 making that administrative regulation unnecessary; a training program for temporary life agent licenses set forth in KRS 304.9-300(1)(f). KRS 304.9-300(1)(f) was deleted making 806 KAR 9:150 unnecessary.

(d) The benefits expected from the administrative regulation are as follows: Repeal of these administrative regulation will implement HB 875, eliminate confusion and clarify procedures to be followed by individuals seeking to be licensed in the Commonwealth for the purpose of engaging in the business of insurance.

(e) The administrative regulation will be implemented as follows: 806 KAR 9:005, 806 KAR 9:100, 806 KAR 9:150, 806 KAR 9:170 and 806 KAR 9:180 will be repealed.

June 30, 2000

(1) 806 KAR 9:060, Identification cards.

(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 August 22, 2000, at 2 p.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.

(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 August 22, 2000, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO 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".

(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.

(b) The administrative regulation that the department intends to promulgate will remove the term "solicitor" from 806 KAR 9:060 and clarify the purpose of these cards.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations to promulgate rules and administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. HB 875 abolishes solicitor’s licenses so it is necessary to amend 806 KAR 9:060 to comply with this change.

(d) The benefits expected from the administrative regulation are as follows: Amendment of this administrative regulation will eliminate confusion and eliminate sections of the regulation which would pertain to a nonexistent category of insurance license.

(e) The administrative regulation will be implemented as follows: 806 KAR 9:060 will be amended to reflect the abolishment of solicitor’s licenses and to clarify the purpose of the identification card in light of HB 875.

- 321 -
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

June 30, 2000

(1) 806 KAR 9:070, Examination retake limits.

(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 August 22, 2000, at 2 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 August 22, 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: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO 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, 304.15-700, 304.32-250, 304.38-110.

(b) The administrative regulation that the department intends to promulgate will clarify the examination process for licensing by the Department of Insurance and remove references to "soliciot's licenses" as these have been abolished by HB 875.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. KRS 304.15-700 provides that the commissioner may promulgate administrative regulations regarding the examinations of viatical brokers. KRS 304.32-250 provides that the commissioner may promulgate reasonable administrative regulations that he deems necessary for the proper administration of KRS Chapter 304 Subtitle 32. KRS 304.38-110 provides that the Commissioner of Insurance shall promulgate administrative regulations as are necessary to provide for the licensing of health maintenance organization agents. This administrative regulation reasonably restricts the number of times an applicant for a license may take the appropriate examinations required by the Kentucky Insurance Code or administrative regulations promulgated thereunder, sets a minimum score for successful completion of a written licensing examination, and sets a period for which examination scores are valid. HB 875 abolishes solicitor's licenses and substantially changes the examination parameters so it is necessary to amend 806 KAR 9:070 to comply with these changes.

(d) The benefits expected from the administrative regulation are as follows: Amendment of this administrative regulation will eliminate confusion and eliminate sections of the regulation which would pertain to a nonexistent category of insurance license.

(e) The administrative regulation will be implemented as follows: 806 KAR 9:060 will be amended to reflect the abolishment of solicitor's licenses and to clarify the licensing examination process in light of HB 875.

June 30, 2000

(1) 805 KAR 9:120, Unlicensed adjusters.

(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 August 22, 2000, at 2 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 August 22, 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: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO 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.

(b) The administrative regulation that the department intends to promulgate will extend the time period for which unlicensed adjusters may be allowed to adjust in situations involving common catastrophes.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. This administrative regulation extends the length an unlicensed adjuster may participate in aiding in the adjustment of claims in a time of catastrophe from 45 days to 90 days.

(d) The benefits expected from the administrative regulation are as follows: Amendment of this administrative regulation enable insurance carriers to be more productive and responsive in adjusting claims resulting from catastrophic events.

(e) The administrative regulation will be implemented as follows: 806 KAR 9:230 will be amended to change the time limit from 45 days to 90 days.

June 30, 2000

(1) 806 KAR 9:200, Volume of insurance agent exchange of business.

(2) The Department of Insurance intends to promulgate an administrative regulation governing the subject matter listed above.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for August 22, 2000, at 2 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 August 22, 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: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-6632. 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.

(b) The administrative regulation that the department intends to promulgate will amend 806 KAR 9:220.

(8) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. HB 875 changed terminology requiring the amendment of 806 KAR 9:220 for implementation.

(9) The benefits expected from the administrative regulation are as follows: Exchange of business as amended will implement HB 875.

(e) The administrative regulation will be implemented as follows: 806 KAR 9:220 will be amended.

June 30, 2000

(1) 806 KAR 9:210, Time limit to replacement of evidence of licensee financial responsibility.

(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 August 22, 2000, at 2 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 August 22, 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: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-6632. 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.

(b) The administrative regulation that the department intends to promulgate will amend 806 KAR 9:210.

(8) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. HB 875 eliminated the solicitor's license and this amendment removes reference to this license.

(9) The benefits expected from the administrative regulation are as follows: Reference to a solicitor's license will be removed, implementing HB 875.

(e) The administrative regulation will be implemented as follows: 806 KAR 9:210 will be amended.

June 30, 2000

(1) 806 KAR 9:220, Agent continuing education.

(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 August 22, 2000, at 2 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 August 22, 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: Vicky C. Horn, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-6632. 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.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(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, 304.9-295.
(b) The administrative regulation that the department intends to promulgate will amend 806 KAR 9:220.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance. KRS 304.9-295 provides that the Commissioner of Insurance may, by administrative regulation, limit the number of excess continuing education credit hours accumulated during any continuing education biennium. HB 875 eliminated the solicitor's license, and established new licenses. This amendment is necessary to implement HB 875 and to clarify the continuing education process.
(d) The benefits expected from the administrative regulation are as follows: Reference to a solicitor's license will be removed, and new license categories will be added. Procedures will be clarified in order to implement HB 875.
(e) The administrative regulation will be implemented as follows: 806 KAR 9:220 will be amended.

June 30, 2000

(1) 806 KAR 9:250, Specialty credit insurance producer.
(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 August 22, 2000, at 2 p.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.

(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 August 22, 2000, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Pam Farmer, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-9932. 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".

(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.

(a) Information relating to the proposed administrative regulation:
(b) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 304.2-110.
(c) The administrative regulation that the department intends to promulgate will set forth the application process for the license and create an application form.
(d) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations to promulgate rules and administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky insurance Code. HB 595 creates a new insurance license with requirements that are not currently in the insurance code. This administrative regulation clarifies the licensing procedure and incorporates part of the application.
(e) The benefits expected from the administrative regulation are as follows: This administrative regulation will implement HB 595 and clarify procedures to be followed by individuals seeking to be licensed in the Commonwealth for the purpose of engaging in the business of insurance.

(f) The administrative regulation will be implemented as follows: Create licensing package including new form and provide to applicants for completion.

June 30, 2000

(1) 806 KAR 9:260, Rental vehicle agent.
(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 August 22, 2000, at 2 p.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.

(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 August 22, 2000, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Pam Farmer, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-9932. 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".

(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.

(a) Information relating to the proposed administrative regulation:
(b) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 304.2-110.
(c) The administrative regulation that the department intends to promulgate will set forth the application process for the license, create an application form for the license, and sets forth prelicensing, examination, and continuing education requirements.
(d) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations to promulgate rules and administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky insurance Code. HB 354 creates a new insurance license with requirements that are not currently in the insurance code. This administrative regulation clarifies the education, testing, and licensing procedure, and incorporates new forms by reference.
(e) The benefits expected from the administrative regulation are as follows: This administrative regulation will implement HB 354 and clarify
procedures to be followed by individuals seeking to be licensed in the Commonwealth for the purpose of engaging in the business of insurance.

(e) The administrative regulation will be implemented as follows: Publicize change in regulations directly with agents and indirectly through mailings and bulletins. Create licensing package including new form and provide to applicants for completion.

July 10, 2000

(1) 808 KAR 11:010, Industrial insured, government entity insured, and exempt commercial policyholder.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, at 12:30 p.m., at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 23, 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: Kentucky Department of Insurance, Attn: Lawrence W. Cook, PO Box 517, Frankfort, Kentucky 40602, (502) 564-6032, fax number (502) 564-1456.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the 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 304.11-020, and 2000 Ky. Acts ch. 145.

(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. This regulation is being amended to reflect the changes that 2000 Ky. Acts ch. 145 makes to KRS 304.11-020. These changes include: the elimination of eligibility for the industrial insured status; the creation of new classes of insureds, "Government Entity Insurers", and "Exempt Commercial Policyholders"; establishing procedures and creating forms to be used for government entity insureds and exempt commercial policyholders to use in filing for and obtaining their respective status; establishing procedures and creating forms to be used for industrial insureds, government entity insureds and exempt commercial policyholders to renew their status; establishing procedures and forms to be used when insurance companies issue insurance to industrial insureds, government entity insureds and exempt commercial policyholders; and setting forth the requirements a risk manger must have.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Acts ch. 145 authorizes the commissioner to promulgate administrative regulations to establish criteria for eligibility as a government entity insured, and to create forms which industrial insureds, government entity insureds and exempt commercial policyholders shall use to re-apply for their respective status.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation: establishes procedures and creates forms for government entity insureds and exempt commercial policyholders to use in filing for and obtaining their respective status; establishes procedures and creates forms for industrial insureds, government entity insureds and exempt commercial policyholders to use in renewing their respective status; establishes procedures and forms to be used when insurance companies issue insurance to industrial insureds, government entity insureds and exempt commercial policyholders; and sets forth the qualifications a risk manger who is retained by an exempt commercial policyholder must have.

(e) The administrative regulation will be implemented as follows: Property and casualty insurance companies and industrial insureds will be notified of the promulgation of this regulation.

July 11, 2000

(1) 806 KAR 13:090, Premium financing.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, at 12 noon at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 23, 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: Kentucky Department of Insurance, Attn: Lawrence W. Cook, PO Box 517, Frankfort, Kentucky 40602, Phone number (502) 564-6032, Fax number (502) 564-1456.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the 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 304.30-090, 304.13-051, 304.13-071, 304.13-031, and 2000 Ky. Acts ch. 380.

(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. This regulation is being amended to delete the relation to KRS 304.13-130, which was repealed in 1982.

(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.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation provides guidelines for insurance companies to follow when premium is financed through installments.

(e) The administrative regulation will be implemented as follows: Insurance companies will be notified of the promulgation of this regulation.

July 10, 2000

(1) 806 KAR 13:150, Property and casualty rate and rule filings.
(2) The Department of Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(a) The hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, at 10 a.m., at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 23, 2000, the public hearing will be cancelled.

(c) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Department of Insurance, Attn: Lawrence W. Cook, PO Box 517, Frankfort, Kentucky 40602, (502) 564-6032, fax number (502) 564-1456.

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

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

(d) 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.

(e) Persons who wish to file this request may obtain a request form from the address listed above.

(f) Information relating to the proposed administrative regulation:


(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will move existing filing requirements for property and casualty insurance rates from the current administrative regulation for form filings (806 KAR 14:005) to a separate, new regulation in the chapter pertaining to insurance rates, 806 KAR 13:150. The new administrative regulation also adds a new option for insurance carriers in the same group (which groups are recognized by the National Association of Insurance Commissioners) to file their rates by the group as opposed to by the individual carriers composing that group.

(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 304.13-051 requires insurers to file their rates with the commissioner, and specifies when filings become effective. KRS 304.13-061 allows the commissioner to develop reasonable administrative regulations for insurers to record and report their rates. KRS 304.13-081 requires the commissioner to develop a consumer information system to disseminate rate information. KRS 304.13-031 sets standards for how rates are to be made in a non-competitive market. 2000 Ky. Acts ch. 380 makes changes to these statutes.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation provides notice of the procedures and forms to be used when filing insurance rates with the Kentucky Department of Insurance.

(e) The administrative regulation will be implemented as follows: Property and casualty insurance companies will be allowed to use the procedures and forms set forth in the regulation to file their rates.

July 11, 2000

(1) 806 KAR 14:005, Rate and form filings for life and health insurers.

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

(a) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, at 9:30 a.m., at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 23, 2000, the public hearing will be cancelled.

(c) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Department of Insurance, Attn: Lawrence W. Cook, PO Box 517, Frankfort, Kentucky 40602, (502) 564-6032, fax number (502) 564-1456.

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

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

(d) 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.

(e) Persons who wish to file this request may obtain a request form from the address listed above.

(f) Information relating to the proposed administrative regulation:

The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 304.14-120, 304.14-190, 304.17A-095 and 304.2-110.

(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. The department is simultaneously promulgating 8 new regulations, 806 KAR 13:150, and 806 KAR 14:006. All subject matter in existing 806 KAR 14:005 referencing the filing of property and casualty rates and rules will be moved to the new regulation, 806 KAR 13:150. All subject matter in existing 806 KAR 14:005 referencing the filing of property and casualty forms will be moved to the new regulation, 806 KAR 14:006. All subject matter referencing the filing of life and health rates and forms will remain in 806 KAR 14:005. This regulation is being amended to reflect the above-referenced changes regarding the filing of property and casualty rates, rules and forms.

(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 304.14-120 requires insurers to file their forms with the commissioner for approval. KRS 304.17A-095 requires health insurers to file their rates with the commissioner.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation provides notice of the procedures
and forms to be used when filing life and health insurance rates and forms with the Kentucky Department of Insurance.

(e) The administrative regulation will be implemented as follows: Life and health insurance companies will be allowed to use the procedures and forms set forth in the regulation to file their rates and forms.

July 11, 2000

(1) 806 KAR 14:005, Property and casualty insurance form filings.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, at 10:30 a.m., at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 23, 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: Kentucky Department of Insurance, Attn: Lawrence W. Cook, PO Box 517, Frankfort, Kentucky 40602, (502) 564-8032, fax number (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) A request to be informed may be obtained by attending a public hearing scheduled for the subject matter.

(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(1) and 304.17A-250(1).

(b) The administrative regulation that the department intends to promulgate will amend an existing regulation. It will define 1 standard health benefit plan that shall provide coverage in the individual and small group markets after June 30, 1998 required by KRS 304.17A-250(1) and prescribe a standard format for comparison of the standard plan benefits to other offered plans as required by KRS 304.17A-250(7).

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.17A-250(1) requires the commissioner to define by administrative regulation 1 standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. KRS 304.17A-250(7) requires the commissioner to prescribe a standard format for comparison of the standard plan benefits to other offered comparable plans and requires that the benefit comparison format include style, arrangement, overall appearance, and content of the benefit comparisons.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will assure that consumers of health insurance coverage in the state of Kentucky are informed about the benefits contained in the standard health benefit plan as opposed to the benefits in other comparable plans offered by insurers. In addition, this administrative regulation provides a process for modifying the standard health benefit plan and the format for comparison of benefits and exclusions.

(e) The administrative regulation will be implemented as follows: By this administrative regulation, the department will define a standard health benefit plan and the format for comparing the standard benefit plan to other health benefit plans. In addition, the department will be responsible for
collecting recommendations for modifying the standard health benefit plan and the benefits comparison forms. The department will be required to submit the recommendations to the Health Insurance Advisory Council for comment and make the final determination regarding the acceptance or denial of the recommendations.

July 13, 2000
(1) 806 KAR 17:220, Approval criteria and requirements for reentry into the Kentucky health insurance market.
(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 August 24, 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 August 24, 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: Charleette K. Hummel, Kentucky Department of Insurance, 215 West Main Street, PO 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(1).
(b) The administrative regulation that the department intends to promulgate will amend an existing regulation. It will specify the approval criteria and requirements for reentry into the Kentucky health insurance market.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) provides that the commissioner may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the code. This administrative regulation is necessary to establish the approval criteria and requirements for reentry into the Kentucky health insurance market.
(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will assist the commissioner in his decision to approve or disapprove the insurer’s request to reenter the Kentucky health insurance market.

July 13, 2000
(1) 806 KAR 17:230, Requirements regarding medical director’s signature on health care benefit denials.
(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 August 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 August 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: Charlotte K. Hummel, Kentucky Department of Insurance, 215 West Main Street, PO 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(1).
(b) The administrative regulation that the department intends to promulgate will amend an existing regulation. It will establish the grounds for medical director's signature on health care benefit denials required by KRS 304.17A-540, 304.17A-545.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) provides that the commissioner may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the code. This administrative regulation is necessary to establish the grounds for a medical director's signature on health care benefit denials.
(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will establish the grounds for a medical director's signature on health care benefit denials.
(e) The administrative regulation will be implemented as follows: A medical director of a managed care plan shall be required to sign health care benefit denials as set forth in this administrative regulation.
10 days prior to August 23, 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: Char Hummel, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602, Phone - (502) 584-6032, Fax - (502) 584-1456.

(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".

(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 2000 Ky. Acts ch. 521, sec. 4, which amended KRS 304.18-120, and 304.2-110(1).

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will establish minimum benefits for a conversion policy issued pursuant to the conversion privilege contained in a group health policy.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) provides that the commissioner may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Acts ch. 521, sec. 4, amended KRS 304.18-120 to require the department to promulgate administrative regulations to establish minimum benefits for a conversion policy issued pursuant to the conversion privilege contained in a group health policy. This administrative regulation establishes those requirements.

(d) The benefits expected from the administrative regulation are as follows: This regulation will establish the minimum benefits for a conversion policy issued pursuant to the conversion privilege contained in a group health policy.

(e) The administrative regulation will be implemented as follows: Insurers issuing group health policies will be required to provide minimum benefits for a conversion policy as established by this administrative regulation.

July 13, 2000

(1) 806 KAR 17:280, Registration, utilization review, and internal appeal.

(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 August 28, 2000, at 10 a.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.

(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 August 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: Char Hummel, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602, Phone - (502) 584-6032, Fax - (502) 584-1456.

(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".

(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(1), 2000 Ky. Acts ch. 262, secs. 5 and 7, created a new section of subtitle 17A of KRS Chapter 304.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will establish requirements for the registration of insurers or private review agents, and the utilization review process, including internal appeal of decisions.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) provides that the commissioner may make administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Acts ch. 262, sec. 5, requires that the department promulgate emergency administrative regulations to develop a process for the registration of insurers or private review agents. This administrative regulation establishes requirements for the registration of insurers or private review agents, and the utilization review process, including internal appeal of decisions.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will establish the grounds for registration of insurers or private review agents, and the utilization review process, including internal appeal of decisions.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(8)(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(1), 2000 Ky. Acts ch. 262, sec. 15 created a new section of subtitle 17A of KRS Chapter 304.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will establish insurer requirements, procedures for the certification of independent review entities, and the process for initiating and conducting external review of utilization review decisions. It also establishes disclosure requirements of the external review process to be included in the health benefit plan issued at enrollment of a covered person.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) provides that the commissioner may promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Act ch. 262, sec. 15, requires that the department promulgate administrative regulations regarding the independent external review program. This administrative regulation establishes insurer requirements, procedures for the certification of independent review entities, and the process for initiating and conducting external review of utilization review decisions. It also establishes disclosure requirements of the external review process to be included in the health benefit plan issued at enrollment of a covered person.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will establish the insurer requirements, procedures for certification of independent review entities, and the process for initiating and conducting external review of utilization review decisions.

(e) The administrative regulation will be implemented as follows: Insurers and independent review entities are required to conduct external reviews of utilization review decisions in the manner set forth in this administrative regulation and 2000 Ky. Acts ch. 262, sec. 15.

July 13, 2000

(1) 806 KAR 17:300, Provider agreement filing requirements.

(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 August 22, 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 August 22, 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: Charlette K. Hummel, Kentucky Department of Insurance, 215 West Main Street, PO 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(1), 2000 Ky. Acts ch. 500, sec. 1, created a new section of KRS 304.17A-500 to 304.17A-590.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will establish the manner and form of required filings of sample copies of provider agreements.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) provides that the commissioner may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the code. 2000 Ky. Acts ch. 500, sec. 1, requires that the department promulgate administrative regulations regarding the manner and form of required filings of sample copies of provider agreements.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation will establish the manner and form of required filings of sample copies of provider agreements.

(e) The administrative regulation will be implemented as follows: A managed care plan shall be required to file sample copies of provider agreements as set forth in this administrative regulation.

July 11, 2000

(1) 806 KAR 20:010, Declination, cancellation and nonrenewal of property and casualty insurance.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, at 11 a.m., at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 23, 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: Kentucky Department of Insurance, Attn: Lawrence W. Cook, PO Box 517, Frankfort, Kentucky 40602, Phone number: (502) 564-6032, Fax number: (502) 564-1456.

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

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

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

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

(7) Information relating to the proposed administrative regulation:
(6) 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 address listed above.

(7) Information relating to the proposed administrative regulations:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 304.20-040, 304.20-042 and 2000 Ky. Acts ch. 540.

(b) The administrative regulation that the Department intends to promulgate will amend an existing administrative regulation. This regulation is being amended to clarify the effective dates, and to specify that pursuant to KRS 304.20-042, and 2000 Ky. Acts ch. 540, an insurance company may not decline to issue, cancel, nonrenew, or otherwise terminate property and casualty insurance contracts covering personal risks solely because of credit history, or lack of credit history.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-1:10 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 304.20-040 through 304.20-042 require property and casualty insurers to follow certain procedures when declining, canceling, or nonrenewing property and casualty insurance.

(d) The benefits expected from the administrative regulation are as follows: This administrative regulation provides notice of and clarifies procedures property and casualty carriers shall follow when declining, canceling, or nonrenewing property and casualty insurance.

(e) The administrative regulation will be implemented as follows: Property and casualty insurance companies will be allowed to use the procedures set forth in the regulation when declining, canceling, or nonrenewing property and casualty insurance.

July 11, 2000

(1) 806 KAR 20:020, Declination, cancellation and nonrenewal of automobile liability insurance policies.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 23, 2000, at 11:30 a.m., at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky.

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 23, 2000, the public hearing will be canceled.

(5) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Department of Insurance, Attn: Lawrence W. Cook, PO Box 517, Frankfort, Kentucky 40602. Phone number: (502) 564-6032, Fax number: (502) 564-1456.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(6) 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. 
(b) The administrative regulation that the department intends to promulgate will clearly bring health maintenance agent licenses under 806 KAR Chapter 9 for regulation.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. This administrative regulation clarifies the process that health maintenance organization license applicants must complete to obtain a license under new HB 875.
(d) The benefits expected from the administrative regulation as follows: Amendment of this administrative regulation will implement HB 875 and reduce confusion in the industry.
(e) The administrative regulation will be implemented as follows: 806 KAR 38:020 will be amended to bring health maintenance organization agent licenses under the purview of 806 KAR Chapter 9.

KENTUCKY PUBLIC SERVICE COMMISSION

July 12, 2000
(1) 807 KAR 5:063. Filing requirements and procedures for proposals to construct antenna towers for cellular telecommunications services or personal communications services.
(2) The Kentucky Public Service Commission intends to promulgate an amendment to the administrative regulation governing the subject matter cited above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 29, 2000, at 9 a.m., Eastern Daylight Time, in Hearing Room 1, 211 Sower Boulevard, 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 calendar days prior to August 29, 2000, the public hearing will be cancelled.
(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Deborah T. Eversole, General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, PO Box 615, Frankfort, Kentucky, 40602, telephone (502) 594-3940; facsimile (502) 564-7279.
(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 Kentucky Public Service Commission at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to this subject is as follows: KRS 278.040(3) provides that the commission may promulgate, pursuant to KRS Chapter 13A, reasonable regulations to implement the provisions of KRS Chapter 278. KRS 278.020(1) authorizes the commission to issue certificates of public convenience and necessity for utility construction. KRS 278.650 prescribes procedures to be followed regarding a proposal for construction of an antenna tower in a county containing a city of the first class which differ from procedures to be followed in counties that do not contain a city of the first class. KRS 278.665(1) requires the commission to promulgate administrative regulations to establish the minimum content of a uniform application to be filed with the commission when a tower is proposed to be located in a jurisdiction that has adopted planning and zoning regulations in accordance with KRS Chapter 100, except for any county containing a city of the first class. HB 417, to be codified at KRS 278.665(2), requires the commission, when establishing public notice requirements for uniform applications to construct cellular antenna towers, to distinguish between areas of low and high population densities and, at a minimum, to require that a uniform application to construct a cellular antenna tower in an area outside a county containing a city of the first class and outside an incorporated city or within a rural service area of an urban-county demonstrate that each person who owns property contiguous to the proposed construction site has received notice of the proposed construction and has been given an opportunity to intervene in the proceeding. The amendment proposed to this administrative regulation will prescribe additional notice requirements for an application for a certificate of public convenience and necessity to construct a telecommunications antenna tower in a rural service area of an urban-county or an unincorporated area within a jurisdiction that has adopted planning and zoning regulations in accordance with KRS Chapter 100 and that does not contain a city of the first class.
(b) The administrative regulation that the Kentucky Public Service Commission intends to promulgate will amend 807 KAR 5:063. It will require a uniform application to demonstrate that persons owning property contiguous to property upon which a cellular antenna tower is proposed to be built have received notice of the proposal, if the construction is proposed for an area within a rural service area in an urban-county or in an area outside an incorporated city.
(c) The necessity and function of the proposed administrative regulation is as follows: The recently enacted HB 417 provides that uniform applications concerning proposals to construct cellular antenna towers in a rural service area of an urban county or in an unincorporated area shall demonstrate that all persons owning property contiguous to the property upon which a cellular antenna tower is proposed to be built receive notice by certified mail, return receipt requested, of the proposed construction, given the commission docket number under which the application will be processed, and informed of the opportunity to intervene in the commission proceeding on the application. The amendment the commission proposes to promulgate is necessary in order to fulfill the statutory mandate of HB 417, which prescribes notice requirements which are not presently prescribed in the administrative regulation.
(d) The benefits expected from the proposed administrative regulation are: requirements and procedures regarding notice in cellular antenna tower application proceedings will be updated to conform to new law.
(e) The administrative regulation will be implemented as follows: The requirements of the regulation will be implemented and enforced as soon as they are effective.
VOLUME 27, NUMBER 2 -- AUGUST 1, 2000

CABINET FOR HEALTH SERVICES
Department for Public Health

July 14, 2000

(1) 901 KAR 5:050, Fees for searches, certified copies of certificates and records.
(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 August 31, 2000, at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(a) The public hearing will be held if:

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 2000, the public hearing will be canceled.

(c) 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).

(c) 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."

(d) 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.

(e) 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.

(f) 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 KRS 213.141.

(b) The administrative regulation that the Department for Public Health intends to promulgate 901 KAR 5:050E to set in regulation the fees charged for the searching or records and delivery of a certified copies of birth certificates according to HB 202 passed in the 2000 session of the General Assembly. This legislation amended KRS 213.141 by raising the fees charged for searches and certified copies of birth certificates. This regulation is filed as an emergency regulation as required under KRS 13A.190 in order to "Meet a deadline for the promulgation of an administrative regulation that is established by state law." It must also be implemented immediately in order to collect fees as prescribed in HB 202.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative prescribes the fees collected by the cabinet for the searching and certified copy of the records registered with the State Registrar of Vital Statistics.

(d) The benefits expected from administrative regulation are: Extra fee collected is to be added to the general fund budget for metabolic screening to improve screening for birth defects.

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

July 14, 2000

(1) 902 KAR 4:120, Health Access Nurturing Development Services (HANDS) Program.
(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 August 31, 2000, at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(a) The public hearing will be held if:

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 2000, the public hearing will be canceled.

(c) 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).

(c) 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."

(d) 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.

(e) 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.

(f) 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 the HANDS Program are KRS 194A.030, 194.050, and 211.690.

(b) The administrative regulation that the Department for Public Health intends to promulgate will establish eligibility criteria, services, provider qualifications and hearing rights for participants in the Health Access Nurturing Development Services (HANDS) Program.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the eligibility criteria, services, provider qualifications and hearing rights for participants in the Health Access Nurturing Development Services (HANDS) Program.
(d) The benefits expected from administrative regulation are positive prenatal outcomes, optimal growth and development, that children live in safe and healthy homes and that families achieve self-sufficiency.

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

July 14, 2000

(1) 902 KAR 100:065. Reciprocal recognition.

(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 August 31, 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 August 31, 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 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 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to reciprocity recognition is KRS 194A.030, 194A.050, 211.842 to 211.852.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 100:065. The U.S. Nuclear Regulatory Commission has amended their regulations. Kentucky is an Agreement State. The Department for Public Health must amend 902 KAR 100:065 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. This amendment will add a requirement for exemption for requesting reciprocity in areas of exclusive federal jurisdiction. In addition, a clarification of payment of fees for reciprocity was made to the administrative regulation.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for the issuance of reciprocity. 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.

(d) The benefits expected from administrative regulation are: Clarification for licensees for requesting reciprocity in areas of exclusive federal jurisdiction and the payment of fees to the cabinet; and ensures conformity with federal regulations.

(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.

July 14, 2000

(1) 902 KAR 100:100. Industrial radiography.

(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 August 31, 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 August 31, 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 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 (VTDD).

(7) Information relating to the proposed administrative regulation.
VOLUME 27, NUMBER 2 -- AUGUST 1, 2000

(a) The statutory authority for the promulgation of an administrative regulation relating to Industrial radiography is KRS 194A.030, 194A.050, 211.842 to 211.852.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 100:100. The U.S. Nuclear Regulatory Commission has amended their regulations. Kentucky is an Agreement State. The Department for Public Health must amend 902 KAR 100:100 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. These amendments change the requirements for training of a radiographer by requiring certification through a third party and also require a 2 person crew. Amends equipment requirements, clarifies lock testing of sources, and transportation requirements of equipment. Specifies requirements for Radiation Safety Officer. Modifies requirements for cabinet x-ray system.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation provides radiation safety requirements for industrial radiographic operations and applies to licensees or registrants who use sources of radiation for industrial radiography. 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.

(d) The benefits expected from administrative regulation are: The administrative regulation provides the requirements by which the cabinet controls users of radioactive material for use in industrial radiography; and ensures conformity with federal regulations.

(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.

Department for Medicaid Services

July 15, 2000

(1) 907 KAR 1:013, Payments for hospital inpatient services.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(a) The public hearing will be held if:

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 2000, the public hearing will be canceled.

(c) 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).

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

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

(e) 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.

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

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

Information relating to the proposed administrative regulation.


(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:013, Payments for hospital inpatient services, to comply with provisions of 2000 Ky. Acts chs. 310 and 439 by establishing critical access hospital payments, to adjust payments made for disproportionate share hospital services, to remove 14 day limit on inpatient hospital stays, and to establish the payment methodology for inpatient services for the July 2000 rate year.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the payment methodology for hospital inpatient services.

(d) The benefits expected from this administrative regulation are: Recipients will receive medically necessary inpatient hospital services without duration limits and providers will receive equitable payments.

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

July 15, 2000

(1) 907 KAR 1:165, Payments for supports for community living services for individuals with mental retardation or developmental disabilities.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(a) The public hearing will be held if:

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 2000, the public hearing will be canceled.

- 335 -
(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) 564-7575 (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. Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to payments for services for community living services for individuals with mental retardation or developmental disabilities are KRS 194A.030, 194A.050, and 235.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:155: Implement an interim reimbursement methodology for rate setting year July 1, 2000 for the Supports for Community Living (SCL) Waiver Program until the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Developmental Disabilities, in accordance with 2000 Ky. Acts ch. 403, develops a permanent SCL reimbursement methodology.

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

(d) The benefits expected from administrative regulation are: Ensure that SCL service providers receive adequate compensation for the provision of services; ensure program participants continue to receive a high quality of care.

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

July 15, 2000
(1) 907 KAR 1:320, Kentucky patient access and care system (KenPAC).
(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate a administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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) 564-7575 (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. Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to the Kentucky patient access and care system (KenPAC) are KRS 205.520, 194A.030, 194A.050, 42 USC 1396a, b. d, 1396u-2, and 2000 Ky. Acts ch. 549.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:320 to reflect changes made in the KenPAC Program which include placing additional eligibility groups under the KenPAC Program including adult recipients of Supplemental Security Income, state supplementation recipients, and pass-through recipients. An advanced registered nurse practitioner (ARNP) will now be allowed to be a KenPAC PCCM. The quota for an ARNP is 1500 recipients. The quota is the same as the physician PCCM quota. Recipients may change providers only within the first 3 months after selection or assignment. After the initial period, recipients must wait until the next open enrollment period. Open enrollment shall be available each year between October and December. However, provisions are made to permit changing KenPAC providers for cause. Amendments to conform with the Balanced Budget Act of 1997 include:
1. The limitation of recipients changing providers only during the first three months after selection or assignment and then only during open enrollment periods thereafter;
2. Assuring that recipients specified by the Balanced Budget Act are excluded from mandatory participation in KenPAC; and
3. Authorizing that family planning services do not require prior authorization.

The administrative regulation will also provide for an increase in monthly case management fees paid to the providers. The development of quality and utilization performance standards on which additional incentive payments shall be made to KenPAC primary care case managers; and an increase in KenPAC primary care case managers (PCCM) management responsibilities.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the terms and conditions under which the Department for Medicaid Services shall provide services and reimbursement for a primary care case management system.

(d) The benefits expected from this administrative regulation are: To eliminate any conflict between obsolete and current material and to enhance the program for the benefit of the citizens of the Commonwealth. This program is intended to provide better health outcomes which will
result in healthier Kentuckians.

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

July 15, 2000
(1) 907 KAR 1:478, Durable medical equipment covered services and reimbursement.
(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 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 August 31, 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 subject matter may file a request to be informed by the administrative body.

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

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

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to durable medical equipment are KRS 194A.030; 194A.050; 205.560; 42 USC 1396a, b, c; 2000 Ky. Acts ch. 457.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will: establish coverage criteria as required by 42 CFR 440.230(c) and the Medicare Region C DMERC DMEROS Supplier Manual; establish payment methodology; establish the Medicaid Fee Schedule; establish a Medicaid rental policy; raise the prior authorization requirement to items billed at $200 or more; and to expand coverage to include amino acid modified nutritional supplements and low protein food products associated with inherited metabolic disorders as required by 2000 Ky. Acts ch. 457.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes coverage criteria and payment methodology for durable medical equipment.

(d) The benefits expected from this administrative regulation are: Establishing coverage criteria and payment methodology for the durable medical equipment program.

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

July 15, 2000
(1) 907 KAR 1:626, Reimbursement of dental services.
(2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 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 August 31, 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 subject matter may file a request to be informed by the administrative body.

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

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

(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation relating to reimbursement of dental services is 2000 Ky. Acts ch. 548.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:626, Reimbursement of dental services, to incorporate new policy allowing for increases in reimbursement for dental services provided to eligible recipients in accordance with HB 502 of the 2000 General Assembly and to make minor policy clarifications and technical changes.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes provision for increased reimbursement to be paid for a number of dental services.

(d) The benefits expected from this administrative regulation are: Increased provider participation.

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

July 15, 2000

(1) 907 KAR 1:631, Reimbursement of Vision Program services.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 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 August 31, 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 subject matter may file a request to be informed by the administrative body.

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

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

(d) Information relating to the proposed administrative regulation.

(1) The statutory authority for the promulgation of an administrative regulation relating to reimbursement of vision program services is 2000 Ky. Acts ch. 54, p. 449.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:631, Reimbursement of Vision Program services to incorporate new policy allowing for increases in reimbursement for vision services to eligible recipients and to make minor policy clarifications and technical changes.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes provision for increased reimbursement to be paid for services related to the dispensing and repair of eyeglasses.

(d) The benefits expected from this administrative regulation are: Increased provider participation and improved access to vision services for the Kentucky Medicaid population.

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

July 15, 2000

(1) 907 KAR 1:790, Medicaid service category expenditure information

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 9:00 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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 subject matter may file a request to be informed by the administrative body.

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

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

(d) Information relating to the proposed administrative regulation.


(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will establish expenditure data reporting requirements for those entities with a Medicaid managed care contract.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes
expenditure data reporting requirements for those entities with a Medicaid managed care contract.

(d) The benefits expected from this administrative regulation are: Complete category of service expenditure data for submission by Medicaid to the Interim Joint Committee on Appropriations and Revenue.

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

July 15, 2000

(1) 907 KAR 3:120, Chiropractic services and payments.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 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 August 31, 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."

(c) 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.

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

(e) 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 chiropractic services are 2000 K.y. Acts ch. 290, sec. 1(1), KRS 194A.030, 194A.050, and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will expand coverage and establish reimbursement for chiropractic services in accordance with SB 294 of the 2000 General Assembly.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes expanded Medicaid coverage for chiropractic services.

(d) The benefit expected from this administrative regulation is: Expanded access to chiropractic services for Medicaid recipients.

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

July 15, 2000

(1) 907 KAR 3:130, Medical necessity.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 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 August 31, 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."

(c) 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.

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 907 KAR 3:130, Medical necessity, are KRS 194A.030, 194A.050, 205.520, and 42 USC 1396a, b, and d.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will establish medical necessity criteria for benefits and services for which the Department for Medicaid Services will reimburse.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes medical necessity criteria for benefits and services for which the Department for Medicaid Services will reimburse.

(d) The benefits expected from this administrative regulation are: Clear and comprehensive medical necessity criteria will be established for
Medicaid providers and recipients.

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

July 15, 2000

(1) 907 KAR 3:140, Coverage and payments for the Health Access Nurturing Development Services (HANDS) Program.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 9 a.m., in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to August 31, 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 subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, 275 East Main St., 6th floor, 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/TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to coverage and payments for the Health Access Nurturing Development Services (HANDS) are KRS 194A.030, 194A.050, 205.560 and HB 706 of the 2000 General Assembly codified at KRS 211.890.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will implement 907 KAR 3:140, Coverage and payments for the Health Access Nurturing Development Services (HANDS) Program to establish the requirements for coverage and payment by the Medicaid Program for HANDS services provided by the Department for Public Health.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes requirements for coverage and payment for health Access Nurturing Development Services (HANDS) provided through an agreement with the State Title V agency, the Department for Public Health.

(d) The benefits expected from administrative regulation are:
   1. Compliance with HB 706;
   2. An increase in case management services provided to first-time parents in order to increase the probability that their newborn has a better chance at normal early childhood development; and
   3. Providing first-time parents with additional parenting skills as well as access to community resources.

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

July 15, 2000

(1) 907 KAR 3:150, Published coding systems.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 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 August 31, 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 subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, 275 East Main St., 6th floor, 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/TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to published coding systems are KRS 194A.030, 194A.050, 205.560, and 42 USC 1596a, b, and d.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will identify specific published reference
VOLUME 27, NUMBER 2 - AUGUST 1, 2000

texts which outline periodically updated standard coding systems used by the Department for Medicaid Services.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation identifies specific published reference texts which outline periodically updated standard coding systems used by the Department for Medicaid Services.

(d) The benefits expected from this administrative regulation are: One administrative regulation will contain periodically updated coding systems to which providers can refer.

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

Department for Mental Health and Mental Retardation Services

July 15, 2000

(1) 908 KAR 2:050, Formula for allocation of funds.

(2) The Department for Mental Health and Mental Retardation Services intends to amend the requirements of this administrative regulation pertaining to the formula for distribution of general funds.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 9 a.m. in the Department for Public Health 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 five members; and
2. A minimum of 5 persons or the administrative body, or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 31, 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, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (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 administrative regulations 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 Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration and Financial Management, 100 Fair Oaks Dr. (4th Floor), 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 American With Disabilities Act. Persons requesting assistance with Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 210.420(2). That statute requires the secretary of the Cabinet for Health Services to distribute to community mental health-mental retardation boards those general funds appropriated to the cabinet for the operation of regional community mental health-mental retardation programs, and that the distribution shall be by a formula.

(b) The amendment to this administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will delete Section 3(3) of this administrative regulation, which requires that 60% of funds appropriated by the General Assembly be allocated on the basis of units of service reported in a board's annual plan and budget, and that payments be based on a cost-related fee-for-service rate. In addition, the amendment will delete references in Section 3 (1) and (4)(d) to the fee for service payment requirements.

(c) The necessity and function of the administrative regulation is as follows: The Department for Mental Health and Mental Retardation Services needs to have the flexibility to establish funding and payment mechanisms based on performance of a variety of contracted functions by the regional mental health and mental retardation boards. The cost related fee for service mechanism inappropriately values costs incurred to the exclusion of other factors. The proposed amendment will permit the department the needed flexibility.

(d) The benefits expected from this administrative regulation are: The proposed amendment to this administrative regulation will permit the department to develop planning, budgeting and payment systems which value performance of functions by the regional mental health and mental retardation boards, which are related to improving the mental health status of Kentucky citizens.

(e) The administrative regulation will be implemented as follows: By the Department for Mental Health and Mental Retardation Service, Cabinet for Health Services.

July 15, 2000

(1) 908 KAR 2:070, Standards for rape crisis centers.

(2) The Department for Mental Health and Mental Retardation Services intends to amend 908 KAR 2:070 in accordance with the requirements of 2000 Ky. Acts ch. 146. That act authorizes the cabinet to specify requirements for establishment, funding, operation, services governance and monitoring of rape crisis programs operated by non-profit organizations, and to assure confidentiality of program records used by the department for monitoring.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000 at 9 a.m. in the Department for Public Health 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 five members; and
2. A minimum of 5 persons or the administrative body, or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to August 31, 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, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (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 administrative regulations 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 Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration and Financial Management, 100 Fair Oaks Dr. (4th Floor), 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 American With Disabilities Act. Persons requesting assistance with Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).
July 14, 2000

(1) 921 KAR 1:400, Establishment, review and modification of child support and medical support orders.

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

3 A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 9 a.m., August 31, 2000, in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to, August 31, 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: Judy Trigg, Cabinet for Families and Children, Regulation Coordinator, Office of the General Counsel, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, FAX: (502) 564-7573.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

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

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

7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishment, review and modification of child support and medical support orders is KRS 13B.170, 194B.050(1), 205.710-205.800, 205.7685, 405.430, 405.520, 406.021, 42 USC 651 et seq.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will:
1. Amend 921 KAR 1:400, Administrative establishment, review and modification of child support and medical support orders, to revise Form CS-71, Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation, and to incorporate a new Form CS-71.1, Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation Exception;
2. Clarify procedures for imputing income; and
3. Clarify the review and adjustment procedures.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation specifies the requirements for the establishment, review, and modification of child support and medical support orders. The amendments to this administrative regulation are necessary to:
1. Implement provisions of SB 218 which amends KRS 403.211 and 403.212 to allocate the cost of reasonably available health insurance coverage between the parents in proportion to income rather than allowing the deduction from gross income. Only the parent with 100% of the income shall deduct premiums paid from gross income.
2. Clarify procedures for imputing income; and
3. Clarify the review and adjustment procedures.

(d) The benefits expected from the administrative regulation are: The amendments to this administrative regulation will provide equity between the parents for the cost of medical support and ensure the cabinet's compliance with KRS 403.211 and 403.212.

(e) The administrative regulation will be implemented as follows: The Cabinet for Families and Children, the Department for Community Based Services will be responsible for implementing the administrative regulation.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

July 14, 2000

(1) 922 KAR 1:050. Approval of adoption assistance.
(2) Cabinet for Families and Children, Department for Community Based Services, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to August 31, 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: Judy H. Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7573 (fax).

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing;"

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, Third Floor West, CWR Building, 275 East Main, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-572-2973 (V/TYY).

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

(a) The statutory authority for the promulgation of an administrative regulation relating to approval of adoption assistance is KRS 194B.050(1), 199.555(10), and 42 USC 673.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 1:050, Approval of adoption assistance. The amended administrative regulation will:
1. Amend the criteria that specifies when a child may be considered "special needs";
2. Specify the requirements for receipt of adoption assistance at the medically fragile or family treatment home rate;
3. Specify that adoption assistance may include payment for extraordinary medical expenses related to the child's special needs which existed prior to the adoption and are not reimbursable by another source; and
4. Incorporate by reference the OOH&C-1258, Adoption Assistance Agreement.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The adoption of approval administrative regulation is required by KRS 194B.050(1), 199.555(10), and 42 USC 673.

(d) The benefit expected from this administrative regulation is: Expansion of the criteria for the definition of "special needs" will enable the cabinet to remove a potential barrier to the adoption of children placed by the cabinet because adoptive subsidy will be available to a greater number of families.

(e) The administrative regulation will be implemented as follows: By the Department for Community Based Services, Cabinet for Families and Children.

July 14, 2000

(1) 922 KAR 1:360. Private child care, levels of care.
(2) Cabinet for Families and Children, Department for Community Based Services, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for August 31, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to August 31, 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: Judy H. Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7573 (fax).

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing;"

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, Third Floor West, CWR Building, 275 East Main, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-572-2973 (V/TYY).

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

(a) The statutory authority for the promulgation of an administrative regulation relating to private child care, levels of care is KRS 194B.050(1), 199.641, and 2000 Ky. Acts ch. 307.
(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 1:360, Private child care, levels of care. The amended administrative regulation will:
1. Change the title from private child care, levels of care, to Private child care placements, levels of care and payment;
2. Establish, to the extent funds are available, a new rate setting methodology and rates of payment for the care of a child who is placed by the cabinet in a private child-caring facility or placed in out-of-home care by a child placing agency. The new rate setting methodology shall be based on a model program cost analysis that is consistent with the level and quality of service provided by private child-caring facilities or child placing agencies;
3. Establish the rate of payment for emergency shelter care;
4. Clarify the rate of payment for care of adolescents placed in a pregnant and teen parent program and establish the rate of payment for children of adolescents;
5. Establish a basic rate of payment for foster care services provided by parents who contract with a child placing agency;
6. Establish the rate of payment for therapeutic foster care services provided by parents who contract with a child placing agency;
7. Implement the establishment of statewide placement coordinators pursuant to KRS 199.801 to determine and expedite the placement of children;
8. Implement changes or new policies recommended by various taskforces regarding private child-caring facilities and child placing agencies;
9. Implement any changes necessary to comply with Kentucky Revised Statutes; and
10. Make necessary corrections to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The function of this administrative regulation shall be to establish procedures in which each child under the custody of the cabinet shall be evaluated to assure classification of a level of care appropriate to the child's needs; each private child-caring facility or child placing agency shall receive payment consistent with the level of care assigned to each child who is placed by the cabinet in the facility or placed by the child caring agency in out-of-home care; and each child under the custody of the cabinet shall be placed in a type of placement that best suits the child's needs.

(d) The benefit expected from this administrative regulation is: The benefit from amending this administrative regulation will be the replacement of the current method of payment to private child-caring facilities or child placing agencies with a new rate setting methodology that will provide payment incentives for moving children as quickly as possible to a permanent, continuous, stable environment; provide each child who requires out-of-home care or alternative treatment with placements that are as close as possible to the child's geographic home; and provide appropriate placement and treatment services that effectively and efficiently meet the needs of the child and the child's family as close as possible to the child's home geographic area.

(e) The administrative regulation will be implemented as follows: By the Department for Community Based Services, Cabinet for Families and Children and the Children's Review Program.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000
EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, JULY 14, 2000

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

STATEMENT OF EMERGENCY
40 KAR 3:010E

The 2000 Session of the General Assembly revised KRS 216B.400 to add sexual assault examination facilities to the payment schedule for performance of sexual assault exams and appropriated funds in the FY 2000-2001 and 2001-2002 budgets to increase reimbursement rates. An ordinary administrative regulation would not allow implementation of these statutory provisions by July 1, 2000. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
ALBERT B. CHANDLER, III, Attorney General

GENERAL GOVERNMENT
Office of the Attorney General
Prosecutors Advisory Council

40 KAR 3:010E. Payment schedule to hospitals, physicians and sexual assault nurse examiners for medical examination of victims of sexual offenses.

RELATES TO: KRS 216B.400(5), (6)
STATUTORY AUTHORITY: KRS 216B.400(6)
EFFECTIVE: June 16, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.400(6) requires the Attorney General to promulgate an administrative regulation to determine the rate to be paid to hospitals, sexual assault examination facilities, physicians and sexual assault nurse examiners for the examination of victims of sexual offenses. This administrative regulation establishes the procedures to be included in the examination, and a standard payment rate for hospitals, sexual assault examination facilities, physicians and sexual assault nurse examiners for performing the services mandated by KRS 216B.400.

Section 1. A [An emergency room] medical examination of victims of sexual offenses shall include a:
(1) Venereal disease reference laboratory (VDRL); and
(2) Rapid plasma reagin (RPR), or a gonorrhea test (GC); and
(3) Other tests relevant to the discovery of the presence of venereal disease.

Section 2. Reimbursement rates for physicians, sexual assault nurse examiners, and hospitals, and sexual assault examination facilities, for performing sexual assault examinations shall not exceed the following limits:
(1) Physicians and sexual assault nurse examiners - $200 [fifty (50) dollars].
(2) Hospitals and sexual assault examination facilities for use of an emergency or examination room - $250 [three hundred (300) dollars].
(3) Hospitals and sexual assault examination facilities to perform laboratory tests - ninety-four (94) [three hundred and fifty (350) dollars].

A. B. CHANDLER, III, Attorney General
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: June 16, 2000 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Pat Arnold

(1) Type and number of entities affected: Hospitals, sexual assault examination facilities, physicians, and sexual assault nurse examiners providing medical examinations to victims of sexual offenses.
(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 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 public comments received.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
   1. First year following implementation: No change.
   2. Second and subsequent years: No change.
   (3) Effects on the promulgating administrative body:
      (a) Direct and indirect costs or savings:
      1. First year: Additional funding ($436,900) was appropriated for FY 2001.
      2. Continuing costs or savings: Additional funding ($436,900) was appropriated for FY 2002.
      3. Additional factors increasing or decreasing costs: No change.
      (b) Reporting and paperwork requirements: No change.
      (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: General Assembly appropriated General Funds for the program.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
   (a) Geographical area in which administrative regulation will be implemented: No public comments received.
   (b) Kentucky: No public comments received.
(8) Assessment of expected benefits:
   (a) Identity effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Increase the number of health care professionals available to perform sexual assault examinations.
   (b) State whether a detrimental effect on environment and public health would result if not implemented: Not applicable.
   (c) If detrimental effect would result, explain detrimental effect:
   (9) Identify any state, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.
   (a) Necessity of proposed regulation if in conflict: Not applicable.
   (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
   (10) Any additional information or comments:
   (11) TIERING: Is tiering applied? No, since all health care professionals are treated similarly and all non-health care professionals, i.e., hospitals, are treated similarly.

STATEMENT OF EMERGENCY
105 KAR 1:290E

This administrative regulation establishes a medical insurance reimbursement plan for eligible recipients of the Kentucky Retirement Systems who live outside of Kentucky. These recipients cannot obtain the same medical insurance benefits as recipients living within the Commonwealth because an indemnity plan is no longer available and the managed care plans require the use of in-state provider networks. Additionally, they are forced to accept lower levels of coverage, go without medical insurance or obtain private insurance without the benefit of the retirement system contribution toward insurance given other recipients under KRS 61.702. The medical insurance reim-
bursement plan will assist these recipients by providing them reim-
bursement for the private medical insurance premiums they have paid
up to the amount that would have been contributed toward the group
insurance under KRS 61.702. Because many Kentucky Retirement
Systems recipients living out of state have lost income due to the
changes in medical insurance offered through the state's group plan,
the 2000 General Assembly directed the Kentucky Retirement Sys-
tems to promulgate an administrative regulation to provide financial
relief through reimbursement of their medical insurance premiums
effective July 14, 2000. An ordinary administrative regulation would
create an unnecessary delay in reimbursing the eligible recipients who
are already suffering a financial hardship by having to pay for other
medical coverage. This emergency administrative regulation will be
replaced by an ordinary administrative regulation. The Notice of Intent
for 105 KAR 1:260 was filed with Regulations Compiler on July 14,
2000.

PAUL E. PATTON, Governor
RANDY OVERSTREET, Chair, Board of Trustees

FINANCE AND ADMINISTRATION CABINET
KENTUCKY RETIREMENT SYSTEMS
(Emergency)

105 KAR 1:260E. Medical Insurance Reimbursement Plan.

RELATES TO: KRS 61.702, 26 USC 105(b), 213(d)
STATUTORY AUTHORITY: KRS 61.6459(9)(e), 61.702
EFFECTIVE: July 14, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.702, as
amended by the 2000 General Assembly, requires the Board of Trus-
tees of the Kentucky Retirement Systems to promulgate an adminis-
trative regulation to establish a medical insurance reimbursement plan
to reimburse eligible recipients living outside of Kentucky. This admin-
istrative regulation sets the eligibility requirements, necessary docu-
mentation for proof of insurance, deadlines for filing for reimbursement
and forms.

Section 1. The medical insurance reimbursement plan shall be
available to a recipient who is a retired member of the Kentucky Em-
ployees Retirement System, the County Employees Retirement Sys-
tem or State Police Retirement System or who is the beneficiary of a
retired member of State Police Retirement System or of a Kentucky
Employees Retirement System or County Employees Retirement
System hazardous member residing in another state in any month the
recipient is not eligible for:

(1) (a) Coverage under the contract for medical insurance for
Medicare-eligible individuals maintained by the Board of Trustees;
(b) In-network benefits through a health maintenance organization
or preferred provider organization offered through the state group
medical insurance administered by the Commonwealth of Kentucky;
or
(c) Coverage under an indemnity plan offered to and providing the
same payments for medical services to retired members residing in
Kentucky.

(2) The medical insurance reimbursement plan shall not be avail-
able to a recipient in any month that the recipient is eligible for cover-
age under subsection (1)(a) to (c) of this section.

Section 2. The maximum monthly reimbursement rates for the
following coverages shall be set by the board in accordance with KRS
61.702:

(1) Coverage for one (1) individual;
(2) Coverage for the recipient and one (1) or more dependents;
(3) Coverage for the recipient and spouse; or
(4) Coverage for the recipient, spouse and dependents.

Section 3. The retirement system shall notify recipients of their
eligibility to participate in the medical insurance reimbursement plan
prior to initial payment of the retirement allowance, when notified of a
change of residence to another state in an area not covered by the
state group medical insurance administered by the Commonwealth of
Kentucky and each open enrollment period for medical insurance
coverage effective the following calendar year.

Section 4. An eligible recipient shall submit to the retirement office
an Application for Medical Insurance Reimbursement, Form 6240,
along with one (1) or more of the following as proof of payment for
hospital and medical insurance premiums:

(1) A copy of the invoice from the insurance company and copy of
the receipt for payment;
(2) A copy of the invoice from the insurance company and copy of
the front and back of the cancelled check made out to the insurance
company;
(3) A copy of a pay stub if the pay stub clearly shows a deduction
for hospital and medical insurance;
(4) A statement from the eligible recipient's employer listing dates
and amounts of premiums deducted from wages;
(5) A copy of a bank statement showing deductions for hospital
and medical insurance if the statement clearly indicates payment to a
company that provides only hospital and medical insurance;
(6) A copy of a bank statement showing deductions to an insur-
ance company along with a statement from the insurance company
listing dates and amounts of premiums; or
(7) Other documentation which the retirement system determines
is sufficient to prove payment for hospital or medical insurance.

Section 5. (1) Medical insurance premiums which are eligible for
reimbursement shall be the premiums for hospital and medical cover-
age which are paid for by the eligible recipient:

(a) For calendar year 2000, premiums paid on or after July 14,
2000.
(b) For calendar years 2001 and later, those premiums paid for
hospital and medical insurance coverage in the calendar year.

(2) The retirement office shall reimburse eligible recipients once
each calendar year quarter. Eligible recipients shall submit proof of
payment for hospital and medical insurance by the following dates for
payment in the following month:

(a) By March 20, for reimbursement in April;
(b) By June 20, for reimbursement in July;
(c) By September 20, for reimbursement in October; or
(d) By December 20, for reimbursement in January.

(3) The retirement system shall not reimburse eligible recipients
for any premiums paid in a calendar year if the Application for Medical
Insurance Reimbursement and proof of payment for hospital and
medical insurance premiums is received in the retirement office after
March 20 of the following year.

Section 6. The retirement system may verify the recipient's eligi-
bility for reimbursement for hospital and medical insurance by re-
questing verification of coverage and payments directly from the in-
surance company indicated on the Application for Medical Insurance
Reimbursement.

Section 7. If a recipient receives reimbursement for any payment
which the recipient was not eligible to receive, the recipient shall return
the payment to the retirement system. If the recipient fails to return
the payment, the retirement office shall deduct the amount from the re-
cipient's future payments from the retirement system.

Section 8. Incorporation by Reference. (1) The Application for
Medical Insurance Reimbursement, Form 6240, is incorporated by
reference.

(2) This material may be inspected, copied, or obtained at the
Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville
Road, Frankfort, Kentucky 40601-6124, Monday through Friday, 8
a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: May 18, 2000
FILED WITH LRC: July 14, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: Pamala S. Johnson
(1) Provide a brief summary of:
(a) What this administrative regulation does: This new administra-
tive regulation establishes the procedure and forms for retirees living
in other states to apply for reimbursement for medical insurance pre-
mums they pay for themselves because they are not able to in the state group medical insurance program with the same coverage as Kentucky residents.

(b) The necessity of this administrative regulation: This administrative regulation is required by 2000 Acts ch. 385, Section 28.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes a medical insurance reimbursement program only for those retirees or eligible recipients living outside of Kentucky who are not eligible for the same coverage as retirees living in Kentucky. It sets out the documentation needed to prove coverage and payment for medical insurance premiums and provides the retiree with ample time to obtain reimbursement. The regulation’s requirements are strict enough to assure that only eligible retirees receive payment, but give the retiree ample time to apply for and receive reimbursement for medical insurance premiums.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation clearly sets out the types of documentation that retirees need to submit in order to establish eligibility for reimbursement.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 800 retirees and beneficiaries living outside Kentucky.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: In the past, retirees living outside Kentucky were forced to accept out-of-network coverage through the state group medical insurance plans or to forego the retirement contribution toward medical insurance completely and obtain insurance at full cost to themselves. This regulation provides a means for the retiree to obtain reimbursement for medical insurance at whatever coverage they can obtain. The reimbursement is up to the same amount they would have contributed toward insurance costs had they remained in Kentucky. Thus, retirees who leave the Commonwealth will be eligible for the same dollar amount of medical insurance benefits as retirees who remain in the state.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: This will provide a potential reimbursements to each of these retirees ranging from $321 to more than $2,800 in the remainder of calendar year 2000 alone.

(b) On a continuing basis: Actual costs will depend on the amount of the state contribution for insurance and the number of out-of-state retirees who pay for medical insurance on their own.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Reimbursements will be paid from the Kentucky Retirement Systems Insurance Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amounts paid as reimbursements are already assumed as liabilities to the insurance fund, because these retirees were previously assumed to participate in the state group insurance program at the time of retirement. No increase is expected in the employer contribution rates as a result of this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? Tiering was applied. Only those retirees or beneficiaries who are not eligible for the same level of coverage as retirees living in Kentucky are eligible for the reimbursement program. Reimbursement amounts are based on retirees years of service, the same as the amount of contribution paid toward medical insurance premiums through the state group medical insurance program.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of local government, including any service provided by that local government? No.

2. State what unit, part or division of local government this administrative regulation will affect.

3. State the aspect or service of local government this administrative regulation will affect.

4. Estimate the effect of this administrative regulation on the expenses and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY

201 KAR 9:021E

This emergency administrative regulation establishes the duration of postgraduate training courses required for all applicants for medical and osteopathic licenses. In order to comply with newly enacted KRS 311.571(1)(d) and (2)(f) which require the board to establish the required duration of postgraduate training by administrative regulation, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 201 KAR 9:021 shall be filed with the Regulations Compiler at the same time as 201 KAR 9:021.

PAULE, PATTON, Governor
DANNY M. CLARK, President

KENTUCKY BOARD OF MEDICAL LICENSURE
(Emergency Amendment)

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

RELATES TO: KRS 311.530 to 311.620, 311.990, 311.271
STATUTORY AUTHORITY: KRS 311.565, 311.571
EFFECTIVE: July 13, 2021.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.571(1) and (2) require the board to promulgate administrative regulations to implement those provisions regarding applicants for medical and osteopathic licenses. This administrative regulation establishes the required duration of prescribed courses of postgraduate training for those applicants. [KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the promotion of uniformity of standards and in the administration of the practice of medicine and osteopathy in the Commonwealth. This administrative regulation is to establish standards for approval of medical and osteopathic schools, colleges and universities in regard to the issuance and renewal of licenses and permits to practice medicine or osteopathy in the Commonwealth. The further purpose of this administrative regulation is to assure that physicians obtain sufficient postgraduate training to enable them to practice with competency within the Commonwealth.]

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

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

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

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

(b) That he is a graduate thereof.

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

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

(2) A license or permit granted by a medical or osteopathic school, college, or university located in the United States, its territories or protectorates, or Canada shall be recognized if written proof is submitted that the educational institution is located in the:

(a) United States, its territories or protectorates, and accredited by the:
    1. Liaison Committee on Medical Education; or
    2. American Osteopathic Association; or

(b) Canada, and approved or accredited by the Canadian Medical Association.

Section 3. Except as provided by Section 4 of this administrative regulation:

(1) A medical or osteopathic school, college, or university located outside the United States, its territories or protectorates, or Canada shall be considered approved by the board, and a license or permit issued by a medical or osteopathic school, college, or university located outside the United States, its territories or protectorates, or Canada shall be recognized, if the educational institution:

(a) Is officially recognized in good standing by the country in which it is located; and

(b) Is registered as a medical school, college, or university in the:
    1. World Health Organization directory; or
    2. World Directory of Medical Schools; and

(c) Possesses a basic course of clinical and classroom medical instruction that is:
    1. Not less than thirty-two (32) months in length; and
    2. Under its direct authority.

Section 4. (1) The board shall deny or revoke its approval of a medical or osteopathic school, college, or university has failed to meet the requirements for approval established by this administrative regulation.

(2) If the board denies or withdraws its approval of a medical or osteopathic school, college, or university, it shall issue an order stating the grounds upon which the denial or approval was based.

Section 5. Except as provided by subsection (4) of this section, the degree of an applicant shall not be recognized unless an applicant has met the requirements established by this section. Except as provided by subsection (4) of this section, clinical clerkships that a medical school located outside the United States, its territories or protectorates, or Canada permits a student to perform in order to satisfy its curriculum's clinical requirements shall be approved if an applicant has established that:

(1) The clinical clerkships he performed were equal in quality and character to the clinical training performed in the United States by students in American medical and osteopathic schools;

(2) The clinical clerkships he performed had been evaluated and approved by the foreign medical school:

(a) Prior to commencement;

(b) As required by the foreign school's established standards for approval of clerkships performed in the United States;

(3) Seventy-five (75) percent of the clerkships performed in the United States were performed in hospitals that:

(a) Are accredited by the Joint Commission on Accreditation of Hospitals;

(b) Have residences in the subject area of the clerkship approved by the Accreditation Council on Graduate Medical Education; and

(c) Are affiliated with a medical school located in the United States.

(4) The board shall waive the requirements established by subsection (1) through (3) of this section, if an applicant:

(a) Commenced a clerkship prior to February 12, 1985;

(b) Has verified that he has:
    1. Satisfactorily completed an approved three (3) year post graduate training program at one (1) hospital or institution; or
    2. Been accepted into, or is currently enrolled, in the second or third year of a postgraduate training program approved by the board.

Section 6. Application of KRS 311.271. The executive director shall recommend for approval by the board the equivalency of premedical or preosteopathic units of study credited by a college or university located outside the United States or Canada on an individual basis.

Section 7. Amount of Postgraduate Training Required. An applicant for licensure shall provide written proof of having completed postgraduate training approved by the board.

(1) Pursuant to KRS 311.571(1)(d), an applicant for regular license must have satisfactorily completed at least two (2) years of prescribed course of postgraduate training approved by the board. However, residents in Kentucky postgraduate training programs approved by the American College of Graduate Medical Education may receive a resident training license, which shall permit them to practice medicine within the institution or in a setting approved by the postgraduate training program, following:

(a) One (1) year of postgraduate training;

(b) Successful completion of one (1) of the examinations approved under Section 2 of 201 KAR 9:031 or successful completion of one (1) of the combinations of those examinations as approved in Section 1 of 201 KAR 9:031 and

(c) Payment to the board of a fee of seventy-five (75) dollars.

(2) The resident training license shall not be issued to a second-year resident without a recommendation by the director of the postgraduate training program and the approval of the board. The secretary may cancel a resident training license at any time, without an evidentiary hearing, for reasons deemed sufficient to him, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular license.

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

(1) All postgraduate training programs in hospitals and institutions located in the United States and approved by the Accreditation Council for Graduate Medical Education.

(2) All postgraduate training programs in hospitals and institutions located in Canada.

(3) All postgraduate training programs in hospitals and institutions located in the United States or Canada and approved by the American Osteopathic Association.

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

DANNY M. CLARK, President
C. LLOYD VEST, II, General Counsel
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 13, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: C. Lloyd Vest, II, General Counsel

(1) Type and number of entities affected: All applicants for medical and osteopathic licenses who file an application after July 14, 2000.

(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 effect on cost of
living and employment.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No effect 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: None
2. Second and subsequent years: Same as first year.
3. Effects on the promulgating administrative body: Decrease in requests for waivers for postgraduate training.
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None anticipated.
(b) Reporting and paperwork requirements: No increase in reporting and paperwork requirements.
(4) Assessment of anticipated effect on state and local revenues:
No effect.
(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Public funds and private funds.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation will be implemented:
(a) Geographical area in which administrative regulation will be implemented: Commonwealth of Kentucky.
(b) Kentucky: Yes
(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternatives were suggested or needed. Assessment of expected benefits:
(8) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: Benefits public health by providing for equal postgraduate training requirements for U.S. medical graduates and International medical graduates.
(9) Identify any state, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: Board is not aware of any statute, regulation, or government policy which is in conflict, or is duplicated by this proposed regulation.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not necessary.
(10) Any additional information or comments: The board believes this regulation will provide for equal postgraduate training requirements for U.S. medical graduates and International medical graduates.
(11) TIERING: Is tiering applied? Yes. The board does not provide for different classifications of medical or osteopathic licenses.

**FISCAL NOTE ON LOCAL GOVERNMENT**

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No
2. State what unit, part or division of local government this administrative regulation affects. Not applicable.
3. State the aspect of service of local government to which this administration regulation relates: Not applicable.
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.
5. Other Explanation: Not applicable.

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**STATEMENT OF EMERGENCY**

501 KAR 6:020E

In order to continue to operate the Department of Corrections in accordance with KRS Chapters 196, 197, 439, and 501 KAR 1:050, the department needs to implement this emergency administrative regulation. An ordinary administrative regulation will not suffice as this administrative regulation shall be effective immediately. I am requesting that this administrative regulation be declared an emergency so the Department of Corrections may amend policies and procedures regarding the use of jumpsuits rather than personal clothing for transport of inmates and limit types of personal clothing which may be retained by inmates to aid in expediting identification in the event of an escape or disturbance on the yard. This emergency administrative regulation shall be replaced by the ordinary administrative regulation in accordance with KRS Chapter 13A. The Notice of Intent for the ordinary administrative regulation is being filed with the Regulations Compiler at the same time the emergency administrative regulation is being filed.

PAUL E. PATTON, Governor
DOUG SAPP, Commissioner

**JUSTICE CABINET**
Kentucky Department of Corrections
(Emergency Amendment)

501 KAR 6:020E. Corrections policies and procedures.

 unfolds TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: July 3, 2000

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 of 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:
(a) "Department of Corrections Policies and Procedures, Volume 1, June 30, 2000 [June 14, 1999]:

1.1 Legal Assistance for Corrections Staff
1.2 News Media
1.4 The Monitoring and Operation of Private Prisons
1.9 Institutional Duty Officer
1.11 Population Counts and Reporting Procedures
1.12 Operation of Motor Vehicles by Department of Corrections Employees
2.1 Inmate Canteen
2.2 Warden's Fund
2.10 Surplus Property
3.1 Code of Ethics
3.3 Holding of Second Jobs by Corrections' Employees
3.5 Sexual Harassment
3.6 Criminal History Checks on All Personnel and the Employment of Exoffenders
3.7 Shifts, Posts and Days Off Assignment
3.12 An institutional Staff Housing
3.20 Communication and Recording Devices
4.2 Staff Training and Development
4.3 Firearms and Chemical Agents Training
4.7 Uniformed Employee Dress Code
6.1 Open Records Law
6.5 E-mail
7.2 Asbestos Abatement
8.1 Occupational Exposure to Bloodborne Pathogens
8.2 Fire Safety

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- 349 -
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.6</td>
<td>Extraordinary Occurrence Report</td>
<td>25.7</td>
</tr>
<tr>
<td>8.7</td>
<td>Notification of Extraordinary Occurrence</td>
<td>25.8</td>
</tr>
<tr>
<td>9.4</td>
<td>Transportation of Inmates to Funerals or Bedside Visits (Amended 6/30/00)</td>
<td>25.10</td>
</tr>
<tr>
<td>9.5</td>
<td>Execution</td>
<td>25.11</td>
</tr>
<tr>
<td>9.6</td>
<td>Contraband</td>
<td></td>
</tr>
<tr>
<td>9.6</td>
<td>Search Policy</td>
<td></td>
</tr>
<tr>
<td>9.15</td>
<td>Informants</td>
<td></td>
</tr>
<tr>
<td>9.19</td>
<td>Found Lost or Abandoned Property</td>
<td></td>
</tr>
<tr>
<td>10.2</td>
<td>Special Management Inmates</td>
<td></td>
</tr>
<tr>
<td>10.3</td>
<td>Safekeepers</td>
<td></td>
</tr>
<tr>
<td>10.4</td>
<td>Special Needs Inmates</td>
<td></td>
</tr>
<tr>
<td>11.2</td>
<td>Nutritional Adequacy of the Diet for Inmates</td>
<td></td>
</tr>
<tr>
<td>11.3</td>
<td>Special Diet Procedures</td>
<td></td>
</tr>
<tr>
<td>11.4</td>
<td>Alternative Diet</td>
<td></td>
</tr>
<tr>
<td>13.1</td>
<td>Pharmacy Policy and Formulary</td>
<td></td>
</tr>
<tr>
<td>13.2</td>
<td>Health Maintenance Services</td>
<td></td>
</tr>
<tr>
<td>13.3</td>
<td>Medical Alert System</td>
<td></td>
</tr>
<tr>
<td>13.4</td>
<td>Health Program Audits</td>
<td></td>
</tr>
<tr>
<td>13.5</td>
<td>Sex Offender Treatment Program</td>
<td></td>
</tr>
<tr>
<td>13.7</td>
<td>Involuntary Psychotropic Medication Policy</td>
<td></td>
</tr>
<tr>
<td>13.8</td>
<td>Substance Abuse Treatment Program</td>
<td></td>
</tr>
<tr>
<td>13.9</td>
<td>Dental Services</td>
<td></td>
</tr>
<tr>
<td>13.10</td>
<td>Serious Infectious Disease</td>
<td></td>
</tr>
<tr>
<td>13.11</td>
<td>Employee Tuberculosis Program</td>
<td></td>
</tr>
<tr>
<td>14.1</td>
<td>Investigation of Missing Inmate Property</td>
<td></td>
</tr>
<tr>
<td>14.2</td>
<td>Personal Hygiene Items</td>
<td></td>
</tr>
<tr>
<td>14.3</td>
<td>Marriage of Inmates</td>
<td></td>
</tr>
<tr>
<td>14.4</td>
<td>Legal Services Program</td>
<td></td>
</tr>
<tr>
<td>14.6</td>
<td>Inmate Grievance Procedures</td>
<td></td>
</tr>
<tr>
<td>15.1</td>
<td>Hair and Grooming Standards</td>
<td></td>
</tr>
<tr>
<td>15.2</td>
<td>Offenses and Penalties</td>
<td></td>
</tr>
<tr>
<td>15.3</td>
<td>Meritorious Good Time</td>
<td></td>
</tr>
<tr>
<td>15.5</td>
<td>Restoration of Forfeited Good Time</td>
<td></td>
</tr>
<tr>
<td>15.6</td>
<td>Adjustment Procedures and Programs</td>
<td></td>
</tr>
<tr>
<td>15.7</td>
<td>Inmate Account Restriction</td>
<td></td>
</tr>
<tr>
<td>15.8</td>
<td>Unauthorized Substance Abuse Testing</td>
<td></td>
</tr>
<tr>
<td>16.1</td>
<td>Inmate Visits</td>
<td></td>
</tr>
<tr>
<td>16.2</td>
<td>Inmate Correspondence</td>
<td></td>
</tr>
<tr>
<td>16.3</td>
<td>Telephone Calls</td>
<td></td>
</tr>
<tr>
<td>16.4</td>
<td>Inmate Packages (Amended 6/30/00)</td>
<td></td>
</tr>
<tr>
<td>17.1</td>
<td>Inmate Personal Property (Amended 6/30/00)</td>
<td></td>
</tr>
<tr>
<td>17.2</td>
<td>Assessment Center Operations</td>
<td></td>
</tr>
<tr>
<td>17.3</td>
<td>Controlled Intake of Inmates</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>&quot;Department of Corrections Policies and Procedures, Volume II, June 14, 1999&quot;:</td>
<td></td>
</tr>
<tr>
<td>18.1</td>
<td>Classification of the Inmate</td>
<td></td>
</tr>
<tr>
<td>18.2</td>
<td>Central Office Classification Committee</td>
<td></td>
</tr>
<tr>
<td>18.5</td>
<td>Custody and Security Guidelines</td>
<td></td>
</tr>
<tr>
<td>18.7</td>
<td>Transfers</td>
<td></td>
</tr>
<tr>
<td>18.9</td>
<td>Out-of-state Transfers</td>
<td></td>
</tr>
<tr>
<td>18-10-01</td>
<td>Preparole Progress Reports</td>
<td></td>
</tr>
<tr>
<td>18.11</td>
<td>Kentucky Correctional Psychiatric Center Transfer Procedures</td>
<td></td>
</tr>
<tr>
<td>18.12</td>
<td>Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill</td>
<td></td>
</tr>
<tr>
<td>18.13</td>
<td>Population Categories</td>
<td></td>
</tr>
<tr>
<td>18.15</td>
<td>Probative Custody</td>
<td></td>
</tr>
<tr>
<td>18.17</td>
<td>Interstate Agreement on Transfers</td>
<td></td>
</tr>
<tr>
<td>18.18</td>
<td>International Transfer of Inmates</td>
<td></td>
</tr>
<tr>
<td>19.1</td>
<td>Government Services Projects</td>
<td></td>
</tr>
<tr>
<td>19.2</td>
<td>Community Services Projects</td>
<td></td>
</tr>
<tr>
<td>19.3</td>
<td>Inmate Wage Program</td>
<td></td>
</tr>
<tr>
<td>20.1</td>
<td>Educational Programs and Educational Good Time</td>
<td></td>
</tr>
<tr>
<td>21.2</td>
<td>Boot Camp Program</td>
<td></td>
</tr>
<tr>
<td>22.1</td>
<td>Privilege Trips</td>
<td></td>
</tr>
<tr>
<td>23.1</td>
<td>Religious Programs</td>
<td></td>
</tr>
<tr>
<td>25.1</td>
<td>Gratuities</td>
<td></td>
</tr>
<tr>
<td>25.2</td>
<td>Public Official Notification of Release of an Inmate</td>
<td></td>
</tr>
<tr>
<td>25.3</td>
<td>Prerelease Program</td>
<td></td>
</tr>
<tr>
<td>25.4</td>
<td>Institutional Furloughs</td>
<td></td>
</tr>
<tr>
<td>25.6</td>
<td>Community Center Program</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>&quot;Department of Corrections Policies and Procedures, Volume III, April 11, 2000&quot;:</td>
<td></td>
</tr>
<tr>
<td>27-01-01</td>
<td>Probation and Parole Procedures</td>
<td></td>
</tr>
<tr>
<td>27-02-01</td>
<td>Duties of Probation and Parole Officers</td>
<td></td>
</tr>
<tr>
<td>27-03-01</td>
<td>Workload Formula Supervisor/Staff Ratio</td>
<td></td>
</tr>
<tr>
<td>27-05-01</td>
<td>Testimony, Court Demeanor and Availability of Legal Services</td>
<td></td>
</tr>
<tr>
<td>27-06-01</td>
<td>Availability of Supervision Services</td>
<td></td>
</tr>
<tr>
<td>27-08-02</td>
<td>Equal Access to Services</td>
<td></td>
</tr>
<tr>
<td>27-07-01</td>
<td>Cooperation with Law Enforcement Agencies</td>
<td></td>
</tr>
<tr>
<td>27-08-01</td>
<td>Use of Force</td>
<td></td>
</tr>
<tr>
<td>27-09-01</td>
<td>Kentucky Community Resources Directory</td>
<td></td>
</tr>
<tr>
<td>27-10-01</td>
<td>Pretrial Diversion</td>
<td></td>
</tr>
<tr>
<td>27-11-01</td>
<td>Intensive Supervision</td>
<td></td>
</tr>
<tr>
<td>27-11-02</td>
<td>Prerelease Probation</td>
<td></td>
</tr>
<tr>
<td>27-12-01</td>
<td>Supervision: Case Classification</td>
<td></td>
</tr>
<tr>
<td>27-12-02</td>
<td>Risk Assessment</td>
<td></td>
</tr>
<tr>
<td>27-12-03</td>
<td>Initial Interview</td>
<td></td>
</tr>
<tr>
<td>27-12-04</td>
<td>Conditions of Supervision and Request for Modification</td>
<td></td>
</tr>
<tr>
<td>27-12-05</td>
<td>Releasee's Report</td>
<td></td>
</tr>
<tr>
<td>27-12-06</td>
<td>Grievance Procedures for Offenders</td>
<td></td>
</tr>
<tr>
<td>27-12-07</td>
<td>Employment, Educational and Vocational Referrals ([Amended 6/14/95])</td>
<td></td>
</tr>
<tr>
<td>27-12-08</td>
<td>Supervision Plan</td>
<td></td>
</tr>
<tr>
<td>27-12-09</td>
<td>Casebook</td>
<td></td>
</tr>
<tr>
<td>27-12-10</td>
<td>Guidelines for Monitoring Supervision Fee</td>
<td></td>
</tr>
<tr>
<td>27-12-11</td>
<td>Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority</td>
<td></td>
</tr>
<tr>
<td>27-12-12</td>
<td>Other Financial Obligations (Not Ordered by Releasing Authority)</td>
<td></td>
</tr>
<tr>
<td>27-12-13</td>
<td>Community Service Work</td>
<td></td>
</tr>
<tr>
<td>27-12-14</td>
<td>Offender Travel</td>
<td></td>
</tr>
<tr>
<td>27-13-01</td>
<td>Drug and Alcohol Testing of Offenders</td>
<td></td>
</tr>
<tr>
<td>27-13-02</td>
<td>Alcohol Detection</td>
<td></td>
</tr>
<tr>
<td>27-14-01</td>
<td>Interstate Compact Transfers</td>
<td></td>
</tr>
<tr>
<td>27-14-02</td>
<td>Interstate Compact Out-of-state Probation and Parole Violation</td>
<td></td>
</tr>
<tr>
<td>27-15-01</td>
<td>Supervision Report; Violations, Unusual Incidents</td>
<td></td>
</tr>
<tr>
<td>27-15-02</td>
<td>Community Confinement Program Subject: Electronic Monitoring</td>
<td></td>
</tr>
<tr>
<td>27-16-01</td>
<td>Search; Seizure; Chain of Custody; Disposal of Evidence</td>
<td></td>
</tr>
<tr>
<td>27-17-01</td>
<td>Absconder Procedures</td>
<td></td>
</tr>
<tr>
<td>27-18-01</td>
<td>Probation and Parole Issuance of Detainer or Warrant</td>
<td></td>
</tr>
<tr>
<td>27-19-01</td>
<td>Preliminary Revocation Hearing</td>
<td></td>
</tr>
<tr>
<td>27-20-01</td>
<td>Division of Probation and Parole Controlled Intake Program</td>
<td></td>
</tr>
<tr>
<td>27-20-02</td>
<td>Prisoner Intake Notification</td>
<td></td>
</tr>
<tr>
<td>27-20-03</td>
<td>Prisoner Status Change</td>
<td></td>
</tr>
<tr>
<td>27-21-01</td>
<td>Apprehension and Transportation of Probation and Parole Violators</td>
<td></td>
</tr>
<tr>
<td>27-23-01</td>
<td>In-state Transfer</td>
<td></td>
</tr>
<tr>
<td>27-24-01</td>
<td>Closing Supervision Report</td>
<td></td>
</tr>
<tr>
<td>27-24-02</td>
<td>Reinstatement of Clients to Active Supervision</td>
<td></td>
</tr>
<tr>
<td>27-26-01</td>
<td>Assistance to Former Clients and Discharges</td>
<td></td>
</tr>
<tr>
<td>27-27-01</td>
<td>Restoration of Civil Rights</td>
<td></td>
</tr>
<tr>
<td>27-28-01</td>
<td>Firearms/Explosives: Application for Relief from Disability</td>
<td></td>
</tr>
<tr>
<td>27-29-01</td>
<td>Parole Review Dates Modification</td>
<td></td>
</tr>
<tr>
<td>27-30-01</td>
<td>[Sex] Offender Registration (Amended 5/15/00)</td>
<td></td>
</tr>
<tr>
<td>27-30-02</td>
<td>Conditional Discharge of Sex Offenders</td>
<td></td>
</tr>
<tr>
<td>27-31-01</td>
<td>Use of Chemical Agents in Probation and Parole</td>
<td></td>
</tr>
<tr>
<td>28-01-01</td>
<td>Probation and Parole Investigation Reports ([Introduction, Definitions, Confidentiality, Timing, and General Comments])</td>
<td></td>
</tr>
<tr>
<td>28-01-02</td>
<td>Probation and Parole Investigation Reports (Partial Investigate-</td>
<td></td>
</tr>
</tbody>
</table>
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

STATEMENT OF EMERGENCY
704 KAR 20:120E

This emergency administrative regulation defines rank designations to be made by the Education Professional Standards Board (EPSB) when issuing emergency certificates for full-time or part-time employment. Additionally, “out-of-field” teaching is defined pursuant to 2000 Ky. Acts ch. 527, sec. 6. The administrative regulation sets forth the eligibility requirements and application procedure for use of emergency-certified personnel in Kentucky school districts when no qualified teacher is available for a position. Previously all emergency certificates were issued at Rank I; 2000 Ky. Acts ch. 527, sec. 6 allows regularly certified teachers in emergency positions to retain their higher rank (III, II, or I). This emergency administrative regulation sets forth the requirements and procedures the EPSB will use in issuing the various Rank designations to emergency-certified staff. An ordinary administrative regulation is not sufficient because school districts are experiencing a severe shortage of qualified teachers and will be employing numerous emergency-certified personnel for the impending school year. Most school districts begin classes in August (with some on alternative calendars beginning as early as July 1), and the EPSB has deemed it necessary to amend this administrative regulation immediately to provide school districts with the information on the new Ranking requirements prior to the start of the 2000-2001 school year. School districts need to have this ranking information to ensure proper budgeting and accounting for compensation of professional school personnel. With the vast increase in the number of emergency-certified teachers it is likely that all school districts will have staff certified or ranked under the new regulations. The emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 14, 2000.

PAUL E. PATTON, Governor
JOE EARLY, Chair

EDUCATION PROFESSIONAL STANDARDS BOARD
(Emergency Amendment)
704 KAR 20:120E. Emergency certification and out-of-field teaching.


EFFECTIVE: July 14, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.100 provides for the employment of school personnel in the event that fully qualified teachers are not available for specific positions. This administrative regulation establishes the qualifications and procedures by which the local boards of education and the Education Professional Standards Board may comply with the statute.

Section 1. Definition. "Qualified teacher" means a teacher who holds the appropriate certification for the position unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2. (1) In order to comply with KRS 161.100 in establishing the need for employing emergency teaching personnel, the superintendent of the local school district and the board of education shall make the following declaration to the Education Professional Standards Board on Form TC-4E [request forms supplied by the Office of Teacher Education and Certification]:
(a) No qualified teachers have applied for the vacant position and to our knowledge qualified teachers are not available for the position.
(b) Diligent efforts have been made to recruit a qualified teacher for the vacant position, and furthermore, this vacancy has been made known locally by appropriate means.
(c) The local school district has been unsuccessful in recruiting qualified teachers for the vacant position from the listings of teachers supplied by the placement services of the teacher education institutions.
(d) The position will be filled by the most suitable applicant available, giving preference to the factors of academic preparation, prior teaching experience or related educational work, and personal attributes compatible with the demands of the teaching profession.

(e) The local school district has conducted a criminal records check as required by KRS 160.380 for each applicant prior to applying for the emergency certificate.

(f) The Kentucky Education Professional Standards Board, depending upon the assessment of need for the position and the availability or anticipated availability of qualified teachers, shall approve or disapprove a request for the employment of emergency teachers. The term of validity of an emergency certificate may be limited to a period less than the full school year; the beginning date shall be no earlier than the date the request form is received by the Kentucky Education Professional Standards Board [in the Department of Education].

(7) A Form TC-4F [Application form] signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts of all college credits earned by the prospective emergency teacher.

(b) An emergency certificate for substitute teaching shall not require application to the Kentucky Education Professional Standards Board. Local school districts shall issue emergency certificates for substitute teaching pursuant to the requirements of this administrative regulation and other pertinent Kentucky statutes and administrative regulations regarding school personnel.

Section 3. Rank and Salary Provisions. (1) Beginning July 14, 2000, the Kentucky Education Professional Standards Board shall issue the emergency certificate for full-time or part-time employment established in Section 2 of this administrative regulation with a rank designation based upon the following criteria:

(a) A teacher holding a valid Kentucky teaching certificate shall be issued an emergency certificate for full-time or part-time employment at the rank designated on his/her regular certificate.

(b) A new teacher holding a valid one (1) year provisional certificate issued upon enrollment in the Kentucky Teacher Internship Program established in 704 KAR 20:680 shall be issued an emergency certificate for part-time employment at the rank designated on his/her one (1) year provisional certificate. The teacher shall maintain a half-time enrollment in the internship as defined in 704 KAR 20:680 to remain eligible for the higher rank established in this paragraph. If the teacher terminates or otherwise fails to continue his/her enrollment in the internship prior to its successful completion, his/her shall be reclassified at Rank IV until such time as he/she is properly reenrolled in the internship program.

(c) A new teacher holding a valid Kentucky Statement of Eligibility shall be issued an emergency certificate for full-time or part-time employment at Rank IV until such time as he/she is properly enrolled in the Kentucky Teacher Internship Program on at least a half-time basis as established in 704 KAR 20:680 and possesses the one (1) year provisional certificate referenced in paragraph (b) of this subsection.

(d) An applicant for the emergency certificate for full-time or part-time employment who does not hold a valid Kentucky teaching certificate shall be issued the emergency certificate at Rank IV.

(2) Local school districts issuing the emergency certificate for substitute teaching established in Section 2 of this administrative regulation shall adhere to the Rank classifications set forth in 2000 Ky. Acts ch. 297 sec. 7.

(3) Local school districts shall use the rank designations delineated in this administrative regulation for establishing minimum salary pursuant to pertinent Kentucky laws and Kentucky Board of Education administrative regulations governing the compensation of professional school personnel.

Section 4. Out-of-field Teaching. (1) A teacher shall be considered to be teaching "out-of-field" if he/she does not possess a certificate of legal qualifications for that position pursuant to KRS 161.020 or 161.100.

(2) A teacher issued an emergency certificate under this administrative regulation shall not be considered teaching "out-of-field".


(2) This material may be inspected, copied, or obtained at the Kentucky Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
(a) What this administrative regulation does: This regulation establishes the requirements for issuance of emergency certificates. The amendment defines Rank designations to be made by the Education Professional Standards Board (EPSB) when issuing emergency certificates for full-time or part-time employment; additionally, "out-of-field" teaching is defined pursuant to 2000 Ky. Acts ch. 527, sec. 6.  

(b) The necessity of this administrative regulation: This regulation establishes candidate eligibility requirements and application procedures for emergency certificates. The amendment to this regulation is promulgated in response to passage of 2000 Ky. Acts ch. 527 (SB 77, 2000 General Assembly).  

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.100 directs the EPSB to establish the necessity and requirements for issuance of emergency certificates. 2000 Ky. Acts ch. 527, sec. 6 requires that fully certified teachers who accept positions on emergency certificates shall not have their salary reduced; the EPSB is the state agency which issues emergency certificates and designates "rank" for salary purposes on each certificate. Additionally, 2000 Ky. Acts ch. 527, sec. 6 requires the EPSB to define "out-of-field" teaching.  

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Promulgation of this emergency regulation will delineate the process by which rank will be awarded on emergency certificates and define "out-of-field" teaching.  

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:  

(a) How the amendment will change this existing administrative regulation: The new material in this regulation adds a section which addresses the EPSB salaries. The second amendment mentioned above adds a new section to define "out-of-field" teaching. A definition section was added and various technical corrections have been made. Material has been incorporated by reference.  

(b) The necessity of the amendment to this administrative regulation: The amendments to this regulation governing the issuance of emergency certificates was made necessary by the passage of SB 77 during the 2000 General Assembly (2000 Ky. Acts ch. 527, sec. 6). The amendment conforms to the content of the authorizing statutes: 2000 Ky. Acts ch. 527, sec. 6 requires that fully certified teachers who accept positions on emergency certificates shall not have their salary reduced; the EPSB is the state agency which issues emergency certificates and designates "rank" for salary purposes on each certificate. Additionally, 2000 Ky. Acts ch. 527, sec. 6 requires the EPSB to define "out-of-field" teaching.  

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All local school districts and certified school personnel who work on emergency certificates are affected by the amendments to this regulation. There are 175 public school districts in Kentucky and during the 1999-2000 school year there were approximately 1000 emergency certificates issued.  

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change in it if it is an amendment: The amendments to this regulation will provide local school districts and teachers on emergency certificates the procedure by which the EPSB will award rank designations.  

(5) Provide an estimate of how much it will cost to implement this administrative regulation:  

(a) Initially: No additional funds allocated or necessary for implementation of regulation.  

(b) On a continuing basis: No additional funds allocated or necessary for continuing implementation of regulation.  

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund  

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding necessary for implementation.  

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not directly or indirectly increase fees.  

(9) TIERING: Is tiering applied? Yes; tiering is applied in response to the General Assembly's direction (in 2000 Ky. Acts ch. 527) that fully certified teachers shall not have their salary reduced when they accept (voluntarily or involuntarily) an emergency teaching position. This means that the fully certified teacher who receives an emergency certificate shall have the emergency certificate designated with a rank of III, I, or I (ranks awarded to fully certified teachers); however, a person who does not hold a Kentucky teaching certificate who is awarded an emergency certificate (e.g., a person with only a baccalaureate degree, but no teacher preparation) shall have the emergency certificate designated with a rank of IV.  

STATEMENT OF EMERGENCY  

704 KAR 20:210E  

This emergency administrative regulation expands the Emergency Noncertified School Personnel Program established in 704 KAR 20:210. The initial program allowed only five (5) school districts to participate during the 1998-99 school year; the administrative regulation was amended last year to allow up to twelve (12) districts to participate during the 1999-2000 school year. This emergency administrative regulation expands the program to allow all Kentucky school districts to participate upon submission of an application and subsequent approval of quality programs by the Education Professional Standards Board (EPSB). An ordinary administrative regulation is not sufficient because the mentioned school districts must apply for participation in the program by August 1, and the ordinary administrative regulation process would not be complete in time to facilitate this deadline (which represents the start of the 2000-2001 school year for most districts). The EPSB delayed a decision on a reauthorization or expansion of the program (which had been in a "pilot" phase for the previous two (2) school years) to obtain additional data from the twelve (12) participating districts for the 1999-2000 school year. This data shows the number of emergency substitutes used, as well as the school districts' plans for eliminating the need for emergency substitutes in the future. Sufficient data for the 1999-2000 school year was not available until June 2000; therefore, the EPSB deferred judgment on the program until its special-called meeting on June 19, 2000. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 14, 2000.  

PAUL E. PATTON, Governor  
JOE EARLY, Chair  

EDUCATION PROFESSIONAL STANDARDS BOARD  
(Emergency Amendment)  

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

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

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

EFFECTIVE: July 14, 2000  

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

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

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

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

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

(3) The Certificate for Substitute Teaching shall:
(a) Be valid for substitute teaching; and
(b) Not be valid for:
   1. For continuous part-time employment for classroom teaching; or
   2. As a permanent replacement for a teacher of record for the remainder of the school year.

Section 2. To employ a substitute teacher during the absence of the teacher of record for a position, priority in selection and employment shall be given in accordance with the following order:
(1) A teacher who holds appropriate regular certification corresponding to the grade level of the teaching assignment;
(2) A teacher who holds regular certification for classroom teaching at any grade level;
(3) A teacher who holds the Certificate for Substitute Teaching;
(4) Except as provided in subsection (5) of this section, a person certified on an emergency basis for substitute teaching pursuant to 704 KAR 20:120, who shall be called according to the following descending order relating to the amount of college hours completed:
(a) A Bachelor's degree;
(b) At least ninety-six (96) semester hours of college credit;
(c) From sixty-four (64) to ninety-five (95) semester hours of college credit;
(5) A person certified on an emergency basis for substitute teaching in a health, technical, or industrial occupation with a minimum of four (4) years of occupational experience in the area to be taught and a high school diploma or its equivalent as determined by evidence of a passing [an acceptable] score on the General Education Development Test.

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

(1) A district shall submit a written letter of application for participation in the Emergency Noncertified School Personnel [Pilot] Program for the 1999-2000 school-year by August 1 of the school year in which the district is requesting participation in the program [—1999]. The application letter shall be reviewed for approval by the Education Professional Standards Board based upon the following documented components:
(a) The number of teaching days not filled with an appropriately certified teacher or appropriately certified emergency substitute in the preceding year;
(b) The extent and anticipated usage of emergency school personnel;
(c) A plan to eliminate the need for emergency school personnel in the future;
(d) The steps taken by the district to recruit and retain emergency certified personnel;
(e) The recruitment of persons with a high school diploma or its equivalent as determined by evidence of a passing score on the General Education Development Test, age twenty-five (25) or over, except an individual enrolled in an approved teacher education program who may be less than twenty-five (25) years old;
(f) Recruitment of〔Certificated assistants〕, parents or other paraprofessionals assigned to the school;
(g) A detailed outline of a minimum eighteen (18) clock hour orientation program including emphasis on student safety, district policies, and procedures; and
(h) An outline of the district screening process, including the required criminal record and reference check.

(2) Upon Education Professional Standards Board approval of the one (1) year approval plan, the district shall:
(a) Submit a list, by name, Social Security number, and school, of personnel meeting the requirements established in subsection (1) of this section;
(b) Utilize personnel in the school for which approval has been granted;
(c) Submit a quarterly report to the Education Professional Standards Board identifying the number of days personnel were utilized under this one (1) year approval plan; and
(d) Submit a year-end evaluation of the one (1) year approval plan for emergency school personnel.

(3) A district that was approved by the Education Professional Standards Board to operate an Emergency Noncertified School Person nel [Pilot] Program the preceding year may file a written letter of application requesting renewal for continuation of the program. Renewal shall be contingent upon a successful evaluation of the previous year's program pursuant to the application letter and reporting requirements of this administrative regulation.

JOE EARLY, Chair
APPROVED BY AGENCY: June 20, 2000
FILED WITH LRC: July 14, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiedervohl

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation establishes certification requirements for substitute teaching. The amendment expands the Emergency Noncertified Personnel Program which allows school districts, upon approval by the Education Professional Standards Board (EPSB), to employ and assign persons with a minimum of a high school diploma to a substitute teaching position when no certified substitute teacher is available. The program had been in a "pilot" phase for the previous two school years; the amendments to this regulation dissolve the "pilot" and allow any Kentucky school district to participate.
(b) The necessity of this administrative regulation: The regulation sets forth requirements school districts must adhere to when employing substitute teachers. The amendment is necessary for school districts to be able to meet the extreme staffing shortages experienced throughout the state for certified school positions. Many classrooms would go unstaffed if school districts were not able to utilize qualified noncertified personnel in emergency situations.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Under KRS 161.028, the EPSB establishes certification requirements for professional school positions in Kentucky's public schools and is additionally authorized under KRS 161.100 to offer emergency certificates under certain circumstances and under the eligibility requirements set forth by the EPSB.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation provides the order by which school districts shall place substitute teachers. During the previous two school years, this regulation has allowed five and twelve school districts respectively to utilize noncertified personnel as substitute teachers in emergency circumstances thereby ensuring that all classrooms were staffed. The amendments to this regulation will allow any Kentucky school district experiencing difficulties in placing certified substitute teachers the opportunity to take advantage of this program.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment expands the Emergency Noncertified Personnel Program to allow all Kentucky school districts to participate upon approval by the EPSB; only 12 districts were allowed to participate for the 1999-2000 school year and only 5 districts during the 1998-1999 school year. The amendment also clarifies candidate eligibility and program application requirements.
(b) The necessity of the amendment to this administrative regulation: The program had been in a pilot phase for the previous two school years and the regulation was specific only to those years. An amendment to the regulation would have been necessary whether the EPSB had chosen to discontinue the program, maintain the program
in a pilot phase, or expand the program (as was decided and indicated in the regulation). As mentioned above, the EPSB deemed it necessary to expand the program to allow any Kentucky school district experiencing difficulty in recruiting and retaining certified substitute teachers to participate.

(c) How the amendment conforms to the content of the authorizing statutes: The EPSB has certification authority under KRS 161.100 to establish requirements for emergency credential issued to a person without a teacher preparation background serving in a professional school position in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow all Kentucky school districts the opportunity to use noncertified personnel in emergency circumstances (as envisioned in KRS 161.100) while guaranteeing that every Kentucky student has a qualified substitute teacher when his/her regular teacher must be absent from the instructional setting.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All local school districts and noncertified school personnel who would be employed to serve as emergency substitutes under this program are affected by the amendments to this regulation. There are 176 public school districts in Kentucky and we estimate that each school district which chooses to participate in this program would employ a dozen or more (depending on the size of the district) noncertified emergency personnel under this program.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: School districts that did not participate in the pilot program during the previous school year, and who have witnessed its success, are eager to have this opportunity. The expansion of the program is particularly timely in light of the increasing shortage of qualified persons seeking employment as professional school personnel in our public schools.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No additional funds allocated or necessary for implementation of regulation.

(b) On a continuing basis: No additional funds allocated or necessary for continuing implementation of regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if required by the change if it is an amendment: No increase in fees or funding necessary for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not directly or indirectly increase fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used) No; tiering had been applied in this regulation prior to the amendment, now being promulgated. The program had been limited to a set number of districts during its "pilot" phase. With the amendments to this regulation, the program is now available to any Kentucky school district who submits an application in accordance with the requirements of this administrative regulation.

STATEMENT OF EMERGENCY

704 KAR 20:280E

This emergency administrative regulation expands the opportunities for teachers seeking the certificate endorsement for teaching gifted education established in 704 KAR 20:280. The administrative regulation has allowed teachers to obtain this endorsement, and subsequently instruct gifted and talented students pursuant to KRS 161.100, and to the requirements of an approved program in this certification area. This emergency administrative regulation establishes a probationary plan, which will allow teachers holding certification in other subject fields to teach gifted education while they are completing the required coursework for the full certificate endorsement in this subject field. An ordinary administrative regulation is not sufficient because school districts are experiencing a severe shortage of qualified teachers eligible to instruct gifted and talented students. Most school districts begin classes in August (with some on alternative calendars beginning as early as July 1), and the EPSB has deemed it necessary to have this probationary plan available immediately to school districts for the 2000-2001 school year. The data shows this is an area where school districts have had to use emergency certified staff or place teachers who have minimal training in serving gifted students. The implementation of this probationary plan will allow school districts greater flexibility in assigning teachers to gifted education, and maintain high standards for preparation and certification of these teachers. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 14, 2000.

PAUL E. PATTON, Governor
JOE EARLY, Chair

EDUCATION PROFESSIONAL STANDARDS BOARD
(Emergency Amendment)

704 KAR 20:280E. Endorsement for teachers of gifted education.

RELATES TO: KRS 161.020, 161.028, [161.065], 161.030, 161.052

STATUTORY AUTHORITY: KRS 161.028, [161.065], 161.030

EFFECTIVE: July 14, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028, [161.065] and 161.030 require that teachers and other professional school personnel hold certificates of legal qualification for their respective positions to be issued upon completion of programs of preparation [prescribed by the Kentucky Council on Teacher Education and Certification] and approved by the Education Professional Standards Board [State Board of Education]. This administrative regulation establishes a preparation-certification program for teachers for gifted education.

Section 1. Definition. "Qualified teacher" means a teacher who holds the appropriate certification as a teacher of gifted education unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2. (1) A certificate endorsement as teacher for gifted education shall be issued in accordance with the pertinent Kentucky statutes and the Education Professional Standards Board [State Board of Education] administrative regulations to an applicant who:

(a) Holds a certificate valid for classroom teaching at the elementary school level, the middle grade level, or the high school level;
(b) Has completed at least one (1) year of successful teaching experience. For individuals certified since January 1, 1985, this requirement shall [will] be satisfied by successful completion of the beginning teaching internship experience.
(c) Has completed the appropriate program of preparation for the certificate endorsement established herein at a teacher education institution approved under the standards and procedures included in 704 KAR 20:696 [the Kentucky Standards for the Preparation-Certification of Professional School Personnel, as adopted by 704 KAR 20:655, TEG 54:9].

(2) The endorsement as teacher for gifted education shall be valid for grades K-12; however, assignment to a full-time self-contained gifted education class shall be restricted to the level of the base certificate. The endorsement shall have the same duration as the base certificate.

(3) The teacher for gifted education is defined as a teacher who works directly with identified gifted pupils, in addition to the regularly assigned classroom teacher(s), or for at least one-half (1/2) of the regular school day in a classroom made up only of properly identified gifted students.

(4) All persons employed as teachers for gifted education shall hold an appropriate certificate endorsement for gifted education with the following exceptions:

(a) Teachers identified in Section 3 of this administrative regulation;
(b) [except that all] Teachers having certificates initially issued for a duration period on or before [beginning prior to] July 1, 1984, or
proper renewals thereof, shall remain eligible thereafter for assignment as teachers for gifted education, for the grade levels of the base certificate, provided any such assignment was valid under the original certificate at the time it was issued.

Section 3. (1) If a qualified teacher is not available for the position of teacher of gifted education as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a probationary endorsement for a teacher of gifted education who meets the following qualifications:

(a) A bachelor's degree;
(b) A valid Kentucky teaching certificate;
(c) Admission to the preparation program for the endorsement for teachers of gifted education; and
(d) Current enrollment in graduate studies related to the education profession.

(2) The request for the probationary endorsement shall be submitted on Form TC-GP to the Education Professional Standards Board for each gifted education teacher requiring the probationary endorsement.

(3) The probationary endorsement for teachers of gifted education shall be valid for a period of two (2) years from the initial request. A teacher receiving this probationary endorsement shall complete the requirements of the probationary plan, which includes the requirements for the endorsement for teacher of gifted education issued under Section 2 of this administrative regulation within the two (2) year validity of the probationary endorsement. The probationary endorsement shall not be renewed.


(2) This material may be inspected, copied, or obtained at the Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOE EARLY, Chair
APPROVED BY AGENCY: June 20, 2000
FILED WITH LRC: July 14, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiederwohl

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the certificate endorsement for teaching gifted education. The amendment adds probationary plans for teachers seeking the certificate endorsement for teaching gifted education by establishing a probationary plan which allows teachers holding certification in other subject fields to teach gifted education while they are completing the required coursework for the full certificate endorsement in this subject field.

(b) The necessity of this administrative regulation: The regulation established the endorsement to provide qualified teachers for gifted education. School districts are experiencing a severe shortage of qualified teachers eligible to instruct gifted and talented students. Without the introduction of a probationary plan, districts would have to place emergency certified staff or teachers with minimal training in positions serving gifted students. This probationary plan allows staffing flexibility for school districts while maintaining high standards for teachers of gifted education.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020 requires every professional public school position be staffed by an individual holding the appropriate certificate for that position. KRS 161.028 gives the Education Professional Standards Board (EPSB) the authority to set the requirements for each certificate. This administrative regulation establishes certificate requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides in clear and concise language the eligibility requirements a teacher candidate seeking the certificate endorsement for teaching gifted education must meet to receive both the full endorsement or the probationary endorsement.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment creates a probationary certificate endorsement for teaching gifted education. The regulation before amendment only allowed assignment of this endorsement following completion of the full preparation program in this subject field.

(b) The necessity of the amendment to this administrative regulation: The amendment was necessary to meet the growing demand and increasing shortage of qualified teachers of gifted education.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.020 requires every professional public school position be staffed by an individual holding the appropriate certificate for that position. KRS 161.028 gives the EPSB the authority to set the requirements for each certificate. The amendment to this administrative regulation establishes certification requirements for an individual seeking the probationary endorsement for teaching gifted education.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation provides in clear and concise language the eligibility requirements a teacher candidate seeking the probationary certificate endorsement for teaching gifted education must meet to gain this credential.

(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local school districts, teachers seeking the probationary endorsement for teaching gifted education, and teachers seeking the certificate endorsement for teaching gifted education will be affected by the amendment to this regulation. Kentucky has 176 public school districts. Seven of the 26 teacher education institutions offer the certificate endorsement program for teaching gifted education. The number of teachers who will be affected by the introduction of a probationary plan for receiving this endorsement is very small (likely only a dozen teachers will take advantage of this opportunity each school year).

(f) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: School districts will have greater flexibility in placing qualified staff into gifted education. Teacher education institutions could see more teachers pursuing this certificate endorsement (as this probationary plan provides an additional incentive for receiving this endorsement). Teachers who want to receive this endorsement now have an expanded opportunity to do so.

(g) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None. Existing certification staff will process probationary plan paperwork from applicants.

(b) On a continuing basis: None. Existing certification staff will process paperwork from applicants.

(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will result from the amendment to this regulation. The fee structure for certification applications remains the same. This amendment represents a minor adjustment in the certification system and no additional staff or equipment will be necessary for its implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No increase in fees will result from the amendment to this regulation. The fee structure for certification applications remains the same.

(9) TIERING: Is tiering applied? Yes: this regulation identifies two plans by which a teacher may obtain the certificate endorsement for teaching gifted education. The amendment to this regulation establishes the new probationary plan to allow teachers possessing a certificate in another area to pursue this endorsement while being employed in gifted education; the traditional plan requires teachers to complete the full endorsement prior to assignment to gifted education. Teachers in both plans require the traditional plan and the probationary plan must ultimately complete the coursework to qualify for the full endorsement.
STATEMENT OF EMERGENCY
704 KAR 20:500E

This emergency administrative regulation is being promulgated in response to the passage of HB 161 by the 2000 General Assembly (2000 Ky. Acts ch. 375). 2000 Ky. Acts ch. 375 requires the Education Professional Standards Board (EPSB) to certify teachers of exceptional children - communication disorders at both the baccalaureate and master's levels. This administrative regulation delineates the requirements for the different types and levels of certificates issued for this subject field. The new language clarifies the differences between master's level and baccalaureate level certification as well as the various preparation, assessment, and internship requirements for each. A new regulation stipulates how an individual serving in the classified service in the public schools as a "speech language pathology assistant" may gain baccalaureate level certification from the EPSB. An ordinary administrative regulation is not sufficient because the effect of 2000 Ky. Acts ch. 375 will be experienced immediately by several hundred classified school personnel employed as speech language pathology assistants (SLPAs) and the school administrators in districts employing SLPAs. Most school districts begin classes in August (with some on alternative calendars beginning as early as July 1), and the EPSB has deemed it necessary to provide SLPAs and the school districts employing them with the certification eligibility requirements immediately. Many SLPAs will be eligible for certification under this emergency administrative regulation without additional preparation requirements, which will allow them to reenter certified service for the 2000-2001 school year. The SLPAs who are not automatically eligible for full certification will have timely notification of their internship requirement under this emergency administrative regulation. Promulgation of an ordinary administrative regulation (and its requisite lengthy procedures) would place an undue burden on SLPAs and school districts eager to make employment and assignment decisions in this subject field for the impending school year. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for this emergency administrative regulation was filed with the Regulations Compiler on July 14, 2000.

PAUL E. PATTON, Governor
JOE EARLY, Chair

EDUCATION PROFESSIONAL STANDARDS BOARD
(Emergency Amendment)


EFFECTIVE: July 14, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028 [461-925], and 161.030 require that teachers and other professional personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation and other requirements prescribed by the Education Professional Standards Board [Kentucky Council on Teacher Education and Certification and approved by the State Board of Education]; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures approved by the Council and approved by the Education Professional Standards Board [State-Board]. This administrative regulation establishes the certificates for teachers of exceptional children - communication disorders and [an appropriate certificate and relates to] the corresponding standards and procedures for program approval [as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel].

Section 1. (1) The standard certificate for teachers of exceptional children and youth - communication disorders shall be issued in accordance with the pertinent Kentucky statutes and Education Professional Standards Board [State-Board of Education] administrative regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 704 KAR 20:500E. (2) The standard certificate for teachers of exceptional children and youth - communication disorders shall be issued in accordance with the testing and internship provisions of KRS 161.030, 704 KAR 20:305, and 704 KAR 20:690 [and 704 KAR 20:504]. Upon successful completion of the beginning teacher internship, the certificate shall be extended for the remainder of a five (5) year period and shall be renewed for subsequent five (5) year periods upon completion by September 1 of the year of expiration of three (3) years of successful experience as a teacher of communication disorders or upon completion by September 1 of the year of expiration of at least six (6) semester hours of credit or the equivalent in PSTDUs or CEUs, as defined in 704 KAR 20:500E.

(3) The standard certificate for teachers of exceptional children and youth - communication disorders shall be valid at all age levels for the instruction of exceptional children and youth with communication disorders.

(4) The standard certificate for teachers of exceptional children and youth - communication disorders shall only be issued to an applicant who has completed a master's degree in communication/speech language pathology.

(5) A student enrolled in an approved preparation program leading to the standard certificate for teachers of exceptional children and youth - communication disorders shall complete all required coursework by September 1, 2000 and apply for certification by December 31, 2000. A student failing to meet these deadlines shall complete the preparation and certification requirements established in Section 2 of this administrative regulation.

Section 2. (1) The professional certificate for teachers of exceptional children - communication disorders shall be issued in accordance with the pertinent Kentucky statutes and Education Professional Standards Board administrative regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 704 KAR 20:696.

(2) The professional certificate for teachers of exceptional children - communication disorders shall be issued in accordance with the testing and internship provisions of KRS 161.030, 704 KAR 20:305, and 704 KAR 20:690. Upon successful completion of the beginning teacher internship, the certificate shall be extended for the remainder of the five (5) year period and shall be renewed for subsequent five (5) year periods upon completion of the renewal requirements established in 704 KAR 20:690.

(3) The professional certificate for teachers of exceptional children - communication disorders shall be valid at all age levels for the instruction of exceptional children with communication disorders.

(4) The professional certificate for teachers of exceptional children - communication disorders shall only be issued to an applicant who has completed a master's degree in communication/speech language pathology.

Section 3. (1) Beginning July 14, 2000 the Education Professional Standards Board shall certify teachers of exceptional children - communication disorders who hold licensure as a speech-language pathologist assistant issued by the Kentucky Board of Speech Language Pathology and Audiology under KRS Chapter 334A who meet the qualifications established in this section of this administrative regulation.

(2)(a) Applicants who possess a valid license for speech language pathology assistant issued under KRS Chapter 334A who have at least one (1) year of successful experience in Kentucky's public schools in this position shall be issued the "professional certificate for exceptional children - communication disorders" and the certificate shall be renewable for the remainder of the five (5) years and shall be renewed for subsequent five (5) year periods upon completion of the renewal requirements established in 704
KAR Chapter 20.

(b) Applicants shall submit Form TC-161 with documentation of postsecondary education, licensure and experience.

(3)(a) Applicants who possess a valid license for speech language pathology assistant issued under KRS Chapter 334A who do not have successful experience in Kentucky's public schools in this position shall be issued a statement of eligibility valid for five (5) years. The teacher shall complete the Kentucky Teacher Internship Program established in 704 KAR 20-800. Upon successful completion of the beginning teacher internship, the teacher shall be issued a "professional certificate for exceptional children - communication disorders/SLPA only" valid for the remainder of the five (5) year period and shall be renewed for subsequent five (5) year periods upon completion of the renewal requirements established in 704 KAR Chapter 20.

(b) Applicants shall submit Form TC-161 with documentation of postsecondary education and licensure.

(d) Beginning July 1, 2001 an applicant for the "professional certificate for exceptional children - communication disorders/SLPA only" shall successfully complete the required content area assessments established for this certificate in 704 KAR 20-305.

(5) A teacher certified under this section of this administrative regulation shall maintain a speech language pathology assistant requiring supervision under KRS Chapter 334A, List the type and degree of the master's degree in communication/speech language pathology and gains the professional certificate for exceptional children - communication disorders established in Section 2 of this administrative regulation.

Section 4. Incorporation by Reference. (1) Form TC - 161, 7/2000, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Education Professional Standards Board, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOE EARLY, Chair
APPROVED BY AGENCY: June 20, 2000
FILED WITH LRC: July 14, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiederwohl

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes certification requirements for teachers of exceptional children - communication disorders. The amendment adds a certification option at the baccalaureate level; this regulation sets teacher certification requirements for individuals working in the public schools as speech language pathology assistants (SLPAs). SLPAs were previously relegated to the classified service.

(b) The necessity of this administrative regulation: HB 161 (2000 Ky. Acts ch. 375) directed the Education Professional Standards Board to establish certification in this area on both the baccalaureate and Master's levels. The legislation also stipulated that baccalaureate level teacher certification applicants in this subject field already hold a license as a SLPA from the Kentucky Board of Speech Language Pathology and Audiology.

(c) How this administrative regulation conforms to the content of the statute: This administrative regulation establishes the certification requirements for both master's level speech language pathologists (SLPs) and SLPAs who wish to pursue entrance to the certified service (HB 161 allowed SLPAs to remain in the classified service if they desired).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This administrative regulation provides certification eligibility requirements to both SLPs and SLPAs who want to apply for teacher certification made possible with the passage of HB 161.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to the regulation clarifies to the levels of certification - baccalaureate and master's - and their respective eligibility requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment to this regulation governing certification of teachers of exceptional children - communication disorders became necessary with the passage of HB 161 (2000 Ky. Acts ch. 375) directing the EPSBP to reestablish a baccalaureate level certification in this area. A 1994 law passed by the General Assembly required all teachers of exceptional children - communication disorders to have at least a master's degree; subsequently, all teachers in this category with only a bachelor's degree lost their certificate and became SLPPAs in the classified service. HB 161 does not alter the functional role of the SLPA in the instructional setting, but it does allow them to gain certification and the benefits afforded to other certified teachers.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment sets up the baccalaureate level certification envisioned in HB 161 (baccalaureate and master's levels). The amendment also clearly defines the eligibility requirements each SLPA must meet to gain certification under the intent of HB 161.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this regulation provides the implementing language necessary following the passage of HB 161. It describes certification eligibility and application requirements for teaching exceptional children with communication disorders.

(e) How does this regulation affect competitive businesses, organizations, or state and local government affected by this administrative regulation: School districts employing SLPAs and SLPAs seeking certification under this new legislation will be affected by the promulgation of this regulation. There are 176 public school districts in Kentucky and most employ at least one SLPA (there is a concentration of employed SLPAs in Eastern and Southeastern Kentucky). There are roughly 200 people who hold licenses as SLPAs who would likely seek certification under this legislation and implementing regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: School districts who employ SLPAs who obtain teacher certification under this regulation must place these SLPAs on the single salary schedule corresponding to their rank and experience. Additionally school districts must adhere to the tenure and retirement provisions for certified SLPAs. SLPAs must adhere to the application requirements set forth in this regulation to gain certification, but once certified, these SLPAs will enjoy the same benefits as other certified teachers in the state.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None. Existing certification staff will process certification applications from SLPAs.

(b) On a continuing basis: None. Existing certification staff will process certification applications from SLPAs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will result from the amendment to this regulation. The fee structure for certification applications remains the same. This amendment represents a minor adjustment in the certification system and no additional staff or equipment will be necessary for its implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases existing fees: No increase in fees will result from the amendment to this regulation. The fee structure for certification applications remains the same.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used) Yes. Essentially tiering is established in 2000 Ky. Acts ch. 375 (HB 161) which set up a 2 level certification system for teachers of exceptional children - communication disorders. The 2 levels (or tiers) are the baccalaureate level teacher and the master's level teacher. Both levels must meet certain certification eligibility requirements and adhere to standard application procedures. And each type of teacher, once certified under this administrative regulation, must meet the same certificate renewal requirements. The 'tiering' is only found in the fact that SLPPAs who seek initial teacher certification under this administrative regulation shall only have a bachelor's degree whereas full speech language pathologists (SLPs) applying for initial certification...
tion shall have the master's degree. Consequently the roles of a SLPA and SLP and the level of expertise possessed by each are substantially different.

STATEMENT OF EMERGENCY
704 KAR 20:706E

This emergency administrative regulation establishes the standards for admission, placement, and supervision in student teaching. The administrative regulation sets forth the eligibility requirements for both the cooperating teacher and the student teacher. In the past, cooperating teachers received no state funds for their services in supervising student teachers; teacher education institutions have provided meager stipends to the cooperating teacher. The 2000-2002 Biennial Budget appropriates state money for the first time for compensation of cooperating teachers; this emergency administrative regulation sets forth the requirements and procedures the Education Professional Standards Board (EPSB) will use in issuing payments from this fund. An ordinary administrative regulation is not sufficient because most school districts and teacher education institutions begin classes for the fall semester in August (with some on alternative calendars beginning as early as July 1), and the EPSB has deemed it necessary to amend this administrative regulation immediately to provide school districts and teacher education institutions with the payment procedure well in advance of any submission deadlines associated with receiving payments from this fund. The length of the ordinary administrative regulation process would essentially disqualify a cooperating teacher supervising a student teacher during the fall semester from being eligible for payment from these funds. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 14, 2000.

PAUL E. PATTON, Governor
JOE EARLY, Chair

EDUCATION PROFESSIONAL STANDARDS BOARD
(Emergency Amendment)

704 KAR 20:706E. Admission, placement, and supervision in student teaching.

RELATES TO: KRS 161.028, 161.030, 161.042
STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.042
EFFECTIVE: July 14, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028 requires that a teacher education institution be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the Education Professional Standards Board. KRS 161.030 requires that a certificate shall be issued to a person who has completed a program approved by the Education Professional Standards Board. This administrative regulation establishes the standards for admission, placement, and supervision in student teaching. This is not required by federal law or regulation.

Section 1. Definition. "Cooperating teacher" means a teacher employed in a school in Kentucky who is contracting with a teacher education institution to supervise a student teacher for the purposes of fulfilling the student teaching requirement of the approved teacher preparation program.

Section 2. Cooperating Teacher Eligibility Requirements. (1) The cooperating teacher shall have:
(a) A valid Kentucky teaching certificate for the grade(s) and subject(s) taught;
(b) Attained Rank II certification;
(c) At least four (4) years of teaching experience; and
(d) Taught in the present school system at least one (1) year immediately prior to being assigned a student teacher.
(2) In cases where a cooperating teacher has not attained Rank II certification, this requirement may be waived if he/she has at least twenty (20) years of teaching experience and has been a cooperating teacher during the past five (5) years.
(3) Teachers assigned to a teaching position on the basis of a probationary or emergency certificate issued by the Education Professional Standards Board under 704 KAR Chapter 20 shall not be eligible for serving as a cooperating teacher.

Section 3. Admission to Student Teaching. In addition to the appropriate sections of the National Council for Accreditation of Teacher Education (NCATE) standards which are incorporated under 704 KAR 20:698, each teacher education institution shall determine minimum standards for admission to student teaching which shall include the procedures stated below. Admission to student teaching shall include a formal application procedure for each teacher candidate.
(1) A record or report from a valid and current medical examination, which shall have included a tuberculosis test, shall be placed on file with the admissions committee.
(2) The teacher candidate shall have achieved the following academic requirements:
(a) An overall academic standing of at least 2.50; and
(b) An academic standing of at least 2.50 in an academic specialty for which the institution shall recommend a certificate.
(3) Prior to and during the student teaching experience, the teacher candidate shall adhere to the Professional Code of Ethics for Kentucky School Personnel established in 704 KAR 20:680.

Section 4. [6] Teacher-Student Ratio. The ratio of student teachers to cooperating teachers shall be one (1) to one (1) unless circumstances exist as approved by the Education Professional Standards Board [Office of Teacher Education and Certification]. In any event, the ratio shall not exceed two (2) student teachers per cooperating teacher.

Section 5. [9] College Coordinator. (1) The college coordinator shall make a periodic observation of the student teacher in the classroom and shall prepare a written report on each observation and share it with the student teacher.
(2) The observation report shall be filed as a part of the student teacher record and also used as a validation of the supervisory function.
(3) A student teacher shall receive periodic and regular on-site observation and a critique of the actual teaching situation a minimum of four (4) times excluding seminars and workshops.
(4) The college coordinator shall be available to work with the student teacher and personnel in the cooperating school on a problem that may arise relating to the student teaching situation.

Section 6. [4] Professional Experience. In addition to the appropriate NCATE standards incorporated by reference under 704 KAR 20:698, the teacher education institution shall provide an opportunity for the student teacher to assume major responsibility for the full range of teaching duties in a real school situation under the guidance of qualified personnel from the institution of higher education or the cooperating elementary or secondary school. Each teacher education institution shall provide a full professional semester to include a period of student teaching for a minimum of twelve (12) weeks, full day, or equivalent, within the grade levels corresponding to the student teacher's certification program.

Section 7. Compensation of Cooperating Teachers. (1) Within the confines of the budgetary Act, the Education Professional Standards Board shall contract with the local school district, or make other appropriate arrangements, for the direct service of a cooperating teacher to each student teacher.
(2)(a) The teacher education institution shall submit by approved electronic means a report of all cooperating teachers and their corresponding student teachers to the Education Professional Standards Board:
1. On or before October 15 for a cooperating teacher supervising a student teacher during the fall semester;
2. On or before March 15 for a cooperating teacher supervising a student teacher during the spring semester.
(b) Each report shall include:
1. The number of contract weeks that the cooperating teacher is working with each student teacher for that semester;
2. The cooperating teacher's full name and certificate number;
3. The student teacher's full name, Social Security number, and demographic data;
4. The student teacher's preparation/certification area by assigned certification code;
5. The student teacher's anticipated graduation date; and
6. The name and assigned code of the school and school district where the cooperating teacher is employed and the student teaching requirement is being fulfilled,
(c) If a teacher education institution fails to provide the report by the date established in paragraph (a) of this subsection, the Education Professional Standards Board shall not be liable for payment under this administrative regulation. However, the student teacher may still receive credit for completing the student teaching requirement from the teacher education institution.
(3)(a) Upon receipt of the report, the Education Professional Standards Board shall submit a "Cooperating Teacher Payment Voucher" to each cooperating teacher.
(b) The voucher shall be signed by the cooperating teacher, building principal, and the college coordinator as verification of the cooperating teacher's services to the student.
(c) To be eligible for compensation under this administrative regulation, the cooperating teacher shall submit the completed voucher to the Education Professional Standards Board;
1. On or before December 15 for a cooperating teacher supervising a student teacher during the fall semester; or
2. On or before May 15 for a cooperating teacher supervising a student teacher during the spring semester.
(d) If a cooperating teacher fails to provide the completed voucher by the date established in paragraph (c) of this subsection, the cooperating teacher shall not be eligible to receive any compensation available under this administrative regulation. However, the student teacher may still receive credit for completing the student teaching requirement from the teacher education institution.
(4)(a) The maximum amount of the per semester payment to a cooperating teacher shall be paid based upon the total number of student teachers reported for the fiscal year.
(b) The payment shall be allocated to a cooperating teacher based upon the number of semesters he/she supervised a student teacher as reported in subsections (2) and (3) of this section.
(c) A cooperating teacher who supervises a student teacher for only a portion of the semester shall have his/her payment prorated accordingly.
(d) The per-semester payment to a cooperating teacher shall not exceed the maximum amount established in paragraph (a) of this subsection of this section of this administrative regulation.
(5) Payments to cooperating teachers shall be disbursed to the school districts or nonpublic schools by the Education Professional Standards Board:
(a) On an annual basis; and
(b) On or before June 15.
(6) Compensation to cooperating teachers shall only be provided under this administrative regulation when state funds are appropriated for this purpose. Payment of state funds under this administrative regulation shall be a supplement to the compensation provided by a teacher education institution to a cooperating teacher who is supervising an institution's student teacher. State funds awarded the service of cooperating teachers shall not supplant the teacher education institutions' compensation responsibility.

Section 8. Incorporation by Reference. (1) "Cooperating Teacher Payment Voucher", revised 7/2000, is incorporated by reference.
(2) This material may be inspected, copied, or obtained at the Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601. Monday through Friday, 8 a.m. to 4:30 p.m.

JOE EARLY, Chair
APPROVED BY AGENCY: June 20, 2000
FILED WITH LRC: July 14, 2000 at 9 a.m.
administrative regulation:

(a) Initially: Unknown. Without reliable data on the number of cooperating teachers, it is difficult to gauge costs for the first year of implementation. The EPSB will be employing a new staff member to oversee financial transactions of the agency; this new staff member will have primary responsibility for administering the procedures in this regulation, but will have other duties as well. Teacher education institutions already contract with cooperating teachers; therefore, the reporting requirements of this regulation should align with the procedures they already have in place (thereby avoiding any costly administrative expenditures that might otherwise be necessary to gain the required information). School districts already have compensation systems in place for all their employees and the payment for cooperating teachers will flow through this system just as it does for payment of resource teachers in the Kentucky Teacher Internship Program established in 704 KAR 20:890. The teacher bear no expense in submitting the signed payment voucher. The EPSB has gone to great lengths to streamline this payment procedure, but there are inevitable difficulties and unforeseen costs associated with any new program.

(b) On a continuing basis: Unknown. The first year will generate sufficient data to inform both the General Assembly and education stakeholders on the effectiveness of state compensation for cooperating teachers and the efficiency of the payment procedures set forth in this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will result from the amendment to this regulation. Without additional data, it is impractical to predict at this point whether additional funding will ultimately be necessary to fully implement this regulation. We do not anticipate this need at this time.

(8) State whether or not this administrative regulation establishes any fees or fees that are not directly incident to any fees: No increase in fees will result from the amendment to this regulation.

(9) TIERING: Is tiering applied? No. Tiering is not applicable because all cooperating teachers must meet the same eligibility requirements and all cooperating teachers will receive compensation based upon the amount of service provided to student teacher(s) (i.e., number of semester served and number of weeks in each semester served).

STATEMENT OF EMERGENCY 704 KAR 20:750E

This emergency administrative regulation establishes the procedures for the administration of the Teachers' National Certification Incentive Trust Fund established in 2000 Ky. Acts ch. 257 and funded in the 2000-2002 Biennial Budget. The administrative regulation sets forth the requirements for participating teachers and local boards of education. An ordinary administrative regulation is not sufficient because the funding for the Trust Fund becomes available July 1 and the teachers pursuing national board certification during the 2000-2001 school year (and hence eligible for receiving benefits under the 2000-2001 Biennial Budget) with areas of interest with the National Board of Professional Teaching Standards at the beginning of the school year. The Education Professional Standards Board has deemed it necessary to promulgate this administrative regulation immediately to provide teachers pursuing national board certification, national board certified teachers serving as mentors, and local boards of education with the payment procedure and subsequent access to these funds without delay. The length of the ordinary administrative regulatory process would impede the recruitment of teachers pursuing national board certification and stifle innovative proposals expected for the mentoring programs envisioned in HB 25 (2000 Ky. Acts ch. 257) for the 2000-2001 school year. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 14, 2000.

PAUL E. PATTON, Governor

JOE EARLY, Chair

EDUCATION PROFESSIONAL STANDARDS BOARD

(3) RELATES TO: 2000 Ky. Acts ch. 257

(4) STATUTORY AUTHORITY: 2000 Ky. Acts ch. 257

(5) EFFECTIVE: July 14, 2000

(6) NECESSITY, FUNCTION, AND CONFORMITY: 2000 Ky. Acts ch. 257, sec. 3 establishes the Teachers' National Certification Incentive Trust Fund to provide stipends for teachers to prepare for certification by the National Board of Professional Teaching Standards, to reimburse local boards of education for substitutes for certification candidates, to reimburse a portion of the certification fee for successful certification candidates, and to provide stipends for board certified teachers to serve as mentors. 2000 Ky. Acts ch. 257, sec. 3(3) requires the Education Professional Standards Board to establish procedures for the administration of the fund and the requirements for participating teachers and local boards of education. 2000 Ky. Acts ch. 257, sec. 4(3) requires the Education Professional Standards Board to establish the parameters for mentoring programs utilizing national board certified teachers. This administrative regulation establishes participation requirements and payment procedures relating to this fund.

Section 1. (1) To apply for receipt of payments from the trust fund a Kentucky teacher shall:

(a) Submit a letter of intent to the Education Professional Standards Board; and

(b) Submit documentation to the Education Professional Standards Board from the National Board of Professional Teaching Standards verifying registration as a candidate for national board certification.

(2) A teacher shall submit these materials by December 31 in each of the two (2) years in which he/she is eligible for payments under this fund.

(3) Upon receipt of the materials required under this section, the Education Professional Standards Board shall notify the school district where the teacher pursuing national board certification is employed that he/she is participating in the incentive program.

Section 2. (1) A teacher enrolled for participation in the incentive program under Section 1 of this administrative regulation shall submit a payment voucher, Form NBC-1, for the stipend of $200 per day for two (2) days beyond the school contract year to prepare for the certification assessments. Form NBC-1 shall be signed by:

(a) The teacher pursuing national board certification; and

(b) The superintendent, or his/her designee, of the school district where the teacher is employed.

(2) The teacher pursuing national board certification shall submit payment voucher Form NBC-1 by May 15.

Section 3. (1) The superintendent, on behalf of the local board of education, shall submit a payment voucher, Form NBC-2, for reimbursement for substitute teachers employed to allow the five (5) days of released time for the teacher pursuing national board certification who has been enrolled for participation in the incentive program under Section 1 of this administrative regulation.

(2) The superintendent shall submit payment voucher Form NBC-2 by May 15 of the school year in which the released time was used by the teacher pursuing national board certification.

(3) The teacher pursuing national board certification shall adhere to his/her local board of education policy or procedure for the procurement of substitute teachers.

Section 4. (1) A teacher who successfully completes national board certification shall submit a payment voucher, Form NBC-3, for the seventy-five (75) percent reimbursement of the registration application fee.

(2) The teacher shall submit Form NBC-3 within the school year in which the teacher is notified of his/her successful completion of na-
national board certification.

Section 5. (1) A local school district or group of districts may submit a proposal to the Education Professional Standards Board for a stipend for a national board certified teacher who serves as a mentor to teachers.
(2) The proposal shall be submitted on or before September 1 of the school year in which the mentoring will occur.
(3) The proposal shall be reviewed by the Education Professional Standards Board at its next regularly scheduled meeting based upon the following documented components:
   (a) Evidence of cooperation with school-based decision making council(s);
   (b) Identification of the teacher(s) the national board certified teacher will be mentoring;
   (c) The length and structure of the mentoring program;
   (d) The goals and objectives of the mentoring program;
   (e) The mentoring program’s impact on student learning;
   (f) The mentoring program’s effect on teacher participants’ professional growth and development; and
   (g) The stipend amount requested for the national board certified teacher serving as the mentor.
(4) A school district mentoring program approved by the Education Professional Standards Board shall submit a summary at the conclusion of the program detailing how the components identified in subsection (3) of this section were addressed and listing the mentoring program’s accomplishments.
(5) A national board-certified teacher who serves as a mentor in a program approved under this section of this administrative regulation shall receive a stipend of no less than $1,000 for each teacher the national board-certified teacher is mentoring.
(6) A national board-certified teacher who is teaching full time shall not mentor more than three (3) teachers pursuing national board certification in a school year.

Section 6. (1) Payments made from this fund under the requirement of this administrative regulation shall be disbursed by the Kentucky Department of Education directly to the local school district in which the teacher pursuing national board certification is employed.
(2) The local school district shall be responsible for deducting any relevant withholdings prior to disbursing the funds to the teacher.
(3) The local school district shall be responsible for the salary supplement established in 2000 Ky. Acts ch. 257, sec. 5 for a teacher obtaining national board certification.

   (b) Form NBC-2, 7/2000, is incorporated by reference.
   (c) Form NBC-3, 7/2000, is incorporated by reference.
   (2) This material may be inspected, copied, or obtained at the Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOE EARLY, Chair
APPROVED BY AGENCY: June 20, 2000
FILED WITH LRC: July 14, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mary Ellen Wiederwohl
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation establishes the procedures for the administration of the Teachers' National Certification Incentive Trust Fund established in 2000 Ky. Acts ch. 257 (HB 25, 2000 General Assembly).
   (b) The necessity of this administrative regulation: 2000 Ky. Acts ch. 257, sec. 3 requires the Education Professional Standards Board (EPSB) to promulgate administrative regulations to administer this fund and establish requirements for participating teachers and local boards of education.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the procedures by which teachers pursuing national board certification, nationally board certified teachers mentoring other teachers, and the local boards of education employing these teachers can access the funds available under this Act to be used for the purposes clearly defined by this Act.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will provide teachers and local boards of education with the procedures necessary to access these funds allocated for their use and provide the EPSB with a defensible mechanism for disbursing the funds efficiently and equitably.
   (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
      (a) How the amendment will change this existing administrative regulation: N/A
      (b) The necessity of the amendment to this administrative regulation: N/A
      (c) How the amendment conforms to the content of the authorizing statutes: N/A
      (d) How the amendment will assist in the effective administration of the statutes: N/A
   (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local boards of education employing teachers pursuing national board certification and/or nationally board certified teachers and these categories of teachers are affected by this regulation. There are 176 local boards of education (representing 176 school districts) in Kentucky. There are 37 teachers in Kentucky who already possess national board certification and we estimate approximately 150-200 teachers will pursue national board certification each year for the next several years.
   (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This regulation will provide these parties with the information and procedural requirements necessary to access the trust fund and receive the benefits available.
   (5) Provide an estimate of how much it will cost to implement this administrative regulation:
      (a) Initially: The General Assembly has allocated $400,000 in FY2001 and $800,000 in FY2002 for this program. The EPSB will hire 1 new staff member to promote and oversee the program.
      (b) On a continuing basis: The staff member will continue in FY02 and the increased appropriation reflects the fact that the program will grow with time as more Kentucky teachers pursue national board certification (and hence become eligible for the benefits under this Act).
   (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Fund
   (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary. However, teachers pursuing national board certification must pay an application fee to the National Board of Professional Teaching Standards which is only partially reimbursable under this Act. Additional funding is not necessary to implement the program, but the General Assembly must continue to appropriate funds for the implementation of this Act’s future bienniums. An Incentive Program cannot function without incentive funds.
   (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase fees directly or indirectly.
   (9) TIERING: Is tiering applied? No. All teachers pursuing national board certification receive the same benefits as delineated in the Act. Nationally board certified teachers who mentor other teachers may receive varying levels of compensation under proposals submitted by school districts under this administrative regulation. However, in the interest of fairness, the EPSB has established in this regulation a minimum compensation level for these mentors in hopes of guaranteeing continuity statewide while not hindering creativity in using the very few nationally board certified teachers in Kentucky in the most effective manner.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

STATEMENT OF EMERGENCY
803 KAR 25:010E

The 2000 Legislative Session passed HB 992 which eliminated arbitrators from the injury claims process. Therefore, the Department of Workers' Claims must amend this administrative regulation as an emergency to timely administer the changes of HR 992. The administrative regulation sets forth the procedures for injury claims and eliminates the arbitrator from the process. The changes also incorporate other procedural changes from HB 992. In order to administer the changes made by the Legislature in the 2000 Session through HB 992, the Commissioner of the Department of Workers' Claims must make immediate, emergency changes to the claims procedures. The arbitrators were a major component in the claims process and handled thousands of claims. It is imperative that the department makes immediate changes to compensate the arbitrators' workload. This will insure a smooth transition for HB 992 changes and prevent a delay in the administration of injured workers' claims. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed at a later date.

PAUL E. PATTON, Governor
WALTER W. TURNER, Commissioner

LABOR CABINET
Department of Workers' Claims
(Emergency Amendment)

803 KAR 25:010E. Procedure for adjustments of claims.

RELATES TO: KRS 342.0011, 342.125, 342.260, 342.265, 342.270(7), 342.710, 342.715, 342.760

STATUTORY AUTHORITY: KRS 342.260, 342.270(7)

EFFECTIVE: June 27, 2000

NECESSITY: FUNCTION, AND CONFORMITY: KRS 342.260 requires the commissioner to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 342. KRS 342.270(7) requires the commissioner to promulgate an administrative regulation establishing procedures for the resolution of claims, including benefit review. This administrative regulation establishes the procedure for the resolution of claims before an [arbitrator] administrative law judge[ or Workers' Compensation Board.

Section 1. Definitions. (1) "Administrative law judge" means an individual appointed pursuant to KRS 342.230(3).

(2) "Arbitrator" means an individual appointed pursuant to KRS 342.230(9).

(3) "Board" is defined by KRS 342.0011(10).

(4) "Civil rule" means the Kentucky Rules of Civil Procedure.

(5) "Commissioner" is defined by KRS 342.0011(6).

(6) "Date of filing" means the date a pleading, motion, or other document is received by the Commissioner at the Department of Workers' Claims in Frankfort, Kentucky, except final orders and opinions of [arbitrator] administrative law judges[ and the board] which shall be deemed "filed" three (3) days after the date set forth on the final order or opinion.

(7) "Employer" means and includes individuals, partnerships, voluntary associations and corporations.

(8) "Employment security board" means the Board of the Employment Security Department of the Labor Cabinet.

(9) "Special defenses" means defenses that shall be raised by "special answer" filed within forty-five (45) days of the notice of filing an application for resolution of claim, or within ten (10) days after discovery of facts supporting the defense if discovery could not have been had earlier in the exercise of due diligence. Special defenses shall be waived if not timely raised. Special defenses which shall be pleaded are defenses arising under:

(a) KRS 342.035(3) unreasonable failure to follow medical advice;

(b) KRS 342.165 failure to comply with safety administrative regulation;

(c) KRS 342.316(6) and 342.335 false statement on employment application;

(d) KRS 342.395 voluntary rejection of KRS Chapter 342;

(e) KRS 342.610(3) voluntary intoxication and self-infliction of injury;

(f) KRS 342.710(5) refusal to accept rehabilitation services; and

(g) Running of periods of limitations or repose under KRS 342.185, 342.270, 342.316, or other applicable statute.

(9a) "Last available edition" of the "Guides to the Evaluation of Permanent Impairment" means that edition which the commissioner has certified as being generally available to the department, attorneys, and medical practitioners. The commissioner shall through certification issued to the Workers' Compensation Board, and administrative law judges and posted prominently at the department's hearing sites establish the date upon which a particular edition of the "Guides to Evaluation of Impairment" is applicable for purposes of KRS Chapter 342.

Section 2. Parties. (1) The party making the original application for resolution of claim pursuant to KRS 342.270 and 342.316 shall be designated as "plaintiff" and adverse parties as "defendants".

(2) All persons shall be joined as plaintiffs in whom any right to and relief pursuant to KRS Chapter 342 of any person may be, and the date and occurrence, is alleged to exist. If any person should refuse to join as a plaintiff, that person shall be joined as a defendant, and the fact of refusal to join as a plaintiff shall be pleaded.

(3)(a) All persons shall be joined as defendants against whom the ultimate right to any relief pursuant to KRS Chapter 342 may exist, whether jointly, severally, or in the alternative. An [arbitrator or] administrative law judge may order, upon a proper showing, that a party be joined or dismissed.

(b) The Special Fund may be joined as a defendant in accordance with the appropriate statutory provisions for claims in which the injury date or date of last exposure occurred before December 12, 1996.

(c) Joiner shall be sought by motion as soon as practicable after legal grounds for joiner are known. Notice of joiner and a copy of the claim file shall be served in the manner ordered by the arbitrator or administrative law judge.

Section 3. Pleadings. (1) An application for resolution of claim and all other pleadings shall be typewritten and be submitted upon forms prescribed by the commissioner.

(2) An application for resolution of claim shall be filed with sufficient copies for service on all parties. The commissioner shall make service upon first class mail. Applications may be rejected and returned to the applicant. If the application is resubmitted in proper form within twenty (20) days of the date it was returned, the filing shall relate back to the date the application was first received by the commissioner. Otherwise, the date of second receipt shall be the filing date.

(3) All pleadings shall be served upon the commissioner and shall be served upon all other parties by mailing a copy to the other parties or, if represented, to that representative, at the parties' or representatives' last known address. A certificate of service indicating the method and date of service and signed by the party shall appear on the face of the pleading. Notice of deposition and physical examination shall be served upon the parties and shall not be filed with the commissioner.

(4) After the application for resolution has been assigned to an [arbitrator or] administrative law judge, subsequent pleadings shall include, within the style of the claim and immediately before the claim number, ["Before arbitrator (name)"] or ["Before administrative law judge (name)"] or ["Before administrative law judge acting as arbitrator (name)"]. Upon consolidation of claims, the most recent claim number shall be listed first.

Section 4. Motions. (1) The party filing a motion shall tender a proposed order granting the relief requested.

(2) The party filing a motion may file a brief memorandum supporting the motion and opposing parties may file brief memoranda in reply. Further memoranda (for example, reply to response) shall not be filed.

(3) Every motion and response, the grounds of which depend upon the existence of facts not in evidence, shall be supported by affidavits demonstrating the existence of those facts.

(4) Every motion, the grounds of which depend upon the existence of facts which the moving party believes are shown in the evidence or are admitted by the pleadings, shall make reference to the
place in the record where that evidence or admission is found.

(5) A motion, other than to reopen pursuant to KRS 342.125 or for interlocutory relief, may be considered ten (10) days after the date of filing. A response shall be considered if filed on or before the tenth day after the filing of the motion.

(6)(a) A motion to reopen shall be accompanied by as many of the following items as may be applicable:

1. A current medical release Form 106 executed by the plaintiff;
2. An affidavit evidencing the grounds to support reopening;
3. A current medical report showing a change in disability established by objective medical findings;
4. A copy of the opinion and award, settlement, voluntary agreed order or agreed resolution sought to be reopened;
5. An affidavit certifying that a previous motion to reopen has not been denied by the same party, or if one (1) has previously been made, the date on which the previous motion was filed.

(b) A motion to reopen shall not be considered until twenty-five (25) days after the date of filing. A response shall be served within twenty (20) days of filing the motion to reopen.

(c) Any party may use the following forms provided by the department for motions to reopen:

1. Motion to reopen by plaintiff;
2. Motion to reopen by plaintiff;
3. Motion to reopen by defendant; and
4. Motion to reopen KRS 342.732 benefits.

(7) Motion for allowance of a plaintiff's attorney fee shall be made within thirty (30) days following the finality of the award, settlement or agreed resolution upon which the fee request is based and be served upon the adverse parties and the attorney's client. The motion shall set forth the factual and mathematical computations establishing that the request is within the limits set forth in KRS 342.320. The motion shall be accompanied by an affidavit of counsel detailing the extent of the services rendered and the time expended, a signed and dated Form 109 as required by KRS 342.320(5), and a copy of the signed and dated contingency fee contract.

(8) A motion for allowance of defendant's attorney fee shall be filed within thirty (30) days following the finality of the decision fee requested in KRS 342.320. The motion shall be accompanied by an affidavit of counsel detailing the extent of the services rendered and the time expended, the hourly rate and total amount to be charged, and the date upon which agreement was reached for providing the legal services, and a certification of any amounts previously paid on the claim in question.

(9) The following motions relating to vocational rehabilitation training provided by the department may be used by all parties:

(a) Petition for vocational rehabilitation training; and
(b) Joint motion and agreement to waive vocational rehabilitation evaluation.

Section 5. Application for Resolution of an Injury Claim. (1) To apply for resolution of an injury claim, the applicant shall file Form 101 with the following completed documentation:

(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the date of injury;
(b) Medical history (Form 105), to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for the same body part claimed to have been injured;
(c) Medical release (Form 106);
(d) One (1) medical report describing the injury which is the basis of the claim and, if a psychological condition is alleged, an additional medical report establishing the presence of a mental impairment or disorder. Medical reports required under this paragraph may consist of last signed and written notes of a treating physician. Medical reports filed with an application shall be considered as evidence before the arbitrator.

(2) Defendant shall file a notice of claim denial or acceptance (Form 111) within forty-five (45) days after the date of issuance of notice that an application for resolution of claim has been filed, or within forty-five (45) days following an order sustaining a motion to reopen a claim. If none is filed, all allegations of the application shall be deemed admitted. The notice of claim denial or acceptance shall set forth all pertinent matters which are admitted and those which are denied. If a claim is denied in whole or in part, a defendant shall set forth a detailed summary of the basis for denial, and the name of each witness whose testimony may be relevant to that denial. This notice shall include a description of the physical requirements of plaintiffs job at the time of the alleged injury and the name, address and telephone number of the individual responsible for gathering this information for the employer and its insurer. This requirement of filing a notice of admission or denial shall be in addition to the requirement to file a special answer in accordance with Section 1(9) of this administrative regulation although a denial may incorporate special defenses which have been timely raised.

(3) Proof taking and discovery for all parties shall proceed for a period beginning with the date of issuance of an order of assignment by the commissioner for fifteen (15) days, and therefor the plaintiff shall take rebuttal proof for an additional fifteen (15) days, notice that an application for resolution has been filed to and including a date sixty (60) days from the date the claim is assigned to an arbitrator.

(4) During the pendency of a claim, any party obtaining a medical or vocational report or records shall serve a copy of the report or record upon all other parties within ten (10) days following receipt.

Section 6. Application for Resolution of an Occupational Disease Claim. (1) To apply for resolution of an occupational disease claim, the applicant shall file Form 102 with the following completed attachments:

(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the date of last exposure and all jobs in which plaintiff alleges exposure to the hazards of the occupational disease;
(b) Medical history (Form 105);--to include all physicians, chiropractors, osteopaths, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and including beyond that date any physicians or hospitals regarding treatment for the same body part claimed to have been injured;
(c) Medical release (Form 106);
(d) One (1) medical report supporting the existence of occupational disease. For coal related pneumoconiosis claims, the medical report shall include both a chest x-ray examination and spirometric tests if pulmonary dysfunction is alleged;--Medical reports filed with an application shall be considered as evidence before the arbitrator;
(e) Social Security statement or release form (Form 116).

(2) Defendant shall file a notice of claim denial or acceptance (Form 111) within forty-five (45) days after the date of issuance of notice that an application for resolution has been filed in conformity with Section 5(2) of this administrative regulation, or within forty-five (45) days following an order sustaining a motion to reopen a claim. If none is filed, all allegations of the application shall be deemed admitted.

(3) The notice of claim denial or acceptance shall set forth all pertinent matters which are admitted and those which are denied. If a claim is denied in whole or in part, a defendant shall set forth a detailed summary of the basis for denial, and the name of each witness whose testimony may be relevant to that denial. This notice shall include a description of the physical requirements of plaintiffs job at the alleged date of last exposure; the names of any witnesses; and the name, address, and telephone number of the individual responsible for gathering this information for the employer and its insurer. This requirement of filing a notice of admission or denial shall be in addition to the requirement to file a special answer in accordance with Section 1(9) of this administrative regulation although a denial may assert the special defenses set out above.

(4) For all occupational disease and [or] hearing loss claims, the commission shall promulgate a schedule of medical examination pursuant to KRS 342.515 and 342.525.

(5) Proof taking and discovery for all parties shall proceed as set forth in Section 5(3) of this administrative regulation, or for a period beginning with the date of issuance of notice that an application for resolution of claim has been filed to and including a date sixty (60) days from the date the claim is assigned to an arbitrator.
Section 7. Application for Resolution of a Hearing Loss Claim. (1) To apply for resolution of a hearing loss claim, the applicant shall file Form 103 with the following completed documents:

(a) Work history (Form 104), to include all past jobs performed on a full or part-time basis within twenty (20) years preceding the last date of noise exposure;

(b) Medical history (Form 105), to include all physicians, chiropractors, otologists, psychiatrists, psychologists, and medical facilities such as hospitals where the individual has been seen or admitted in the preceding fifteen (15) years and excluding beyond that date any physicians or hospitals regarding treatment for hearing loss or ear complaints;

(c) Medical release (Form 106);

(d) One (1) medical report describing the hearing loss which is the basis of the claim and, if a psychological condition is alleged, an additional medical report establishing the presence of a mental impairment or disorder. Medical reports required under this paragraph may consist of legible, handwritten notes of a treating physician or reports filed with an application shall be considered as evidence before the arbitrator;

(e) Social Security earnings record release form (Form 115).

(2) Defendant shall file a notice of claim denial or acceptance [Form 111] within forty-five (45) days after the date of issuance of notice of application for resolution of claim has been filed. In conformity with the administrative regulation established in Section 5(3) of this administrative regulation, a defendant may file a notice of claim denial or acceptance within thirty (30) days after the date of issuance of notice of application for resolution of claim has been filed. The notice shall state the basis for the denial of the claim and shall include a description of the physical or psychological incapacity of plaintiff's work at the time of the alleged injury and the name, address and telephone number of the individual responsible for gathering this information for the employer and its insurers. This notice shall be in addition to the notice of claim filing. A special answer in accordance with Section 10 of this administrative regulation [although a denial does not incorporate special defenses which have been timely filed].

(3) Proof taking and discovery for all parties shall proceed for a period beginning with the date of issuance of an order of assignment as set forth in Section 5(3) of this administrative regulation [notice of application for resolution of claim has been filed] and including a date sixty (60) days from the date the claim is assigned to an arbitrator.

(4) During the pendency of a claim, any party obtaining a medical report shall be required to exchange in accordance with Section 5(4) of this administrative regulation [report or records shall serve a copy of the report or records upon all other parties within ten (10) days following receipt].

Section 8. [Benefit Review Before Arbitrator.] (1) The arbitrator to whom the claim is assigned shall discuss voluntary resolution of the claim with the parties by telephone conference or in a benefit review conference and may require the parties to submit written stipulations of fact:

(a) If a claim is resolved, the parties shall complete an agreement as to compensation (Form 110) or prepare for entry an agreed resolution of the claim. The parties shall tender the agreement as to compensation or agreed resolution to the arbitrator for approval.

(b) A benefit review conference, if held, shall be attended by the claimant or his representative, if any, and by the defendant or his representative, if any. The benefit review conference shall be an informal proceeding and a transcript or recording of the conference shall not be made. The parties shall, at the conference, dispose of controversies if possible and define disputed issues.

(4) Proof before an arbitrator shall be submitted by way of medical or vocational report and, for lay witness, by way of depositions. A report of a medical evaluator pursuant to KRS 342.315 shall become evidence before the arbitrator without the filing of a notice or motion.
(f) Timely furnished to all other parties pursuant to Section 5(4) of this administrative regulation;

(g) Accompanied by a summary that is filed of record and served upon all parties. The summary shall:

1. Identify the medical provider;
2. Include the date of medical services;
3. Include the nature of medical services provided.

(4) Upon the scheduling of an evaluation, the commissioner shall provide notice to all parties and the employer shall forward to the plaintiff necessary travel expenses. Upon completion of the evaluation the commissioner shall provide copies of the report to all parties and shall file the original report in the claim record to be considered as evidence.

(5) The administrative law judge shall allow timely cross-examination of a medical evaluator appointed by the commissioner at the expense of the moving party.

(6) Unjustified failure by the plaintiff to attend the scheduled medical evaluation may be grounds for dismissal, payment of a no-show fee, sanctions, or all of the above.

(7) Failure by the employer or its insurance carrier to pay travel expenses within seven (7) days of notification of a scheduled medical evaluation may be grounds for imposition of sanctions.

Section 9. [46] Medical Reports. (1) A party shall not introduce direct testimony from more than two (2) physicians by medical report except upon a showing of good cause and prior approval by an [arbiter-or-] administrative law judge.

(2) Medical reports shall be submitted on Form 107-I (injury), Form 107-P (psychological) or Form 108-OD (occupational disease), Form 108-CWP (coal workers' pneumoconiosis), or Form 108-HL (hearing loss), as appropriate, except that an [arbiter-or-] administrative law judge may permit the introduction of other reports.

(3) Medical reports shall be signed by the physician making the report, or be accompanied by an affidavit from the physician or submitting party or representative verifying the authenticity of the report.

(4) Medical reports shall include within the body of the report or as an attachment, a statement of qualifications of the person making the report. If the qualifications of the physician who prepared the written medical report have been filed with the commissioner and the physician has been assigned a medical qualifications index number, reference may be made to the physicians index number in lieu of attaching qualifications.

(5) Narratives in medical reports shall be typewritten. Other portions, including spirometric tracings, shall be clearly legible.

(6) Upon notice, a party may file the testimony of two (2) physicians, either by deposition or medical report, which shall be admitted into evidence without further order if an objection is not filed. Objection to the filing of a medical report shall be filed within ten (10) days of the filing of the notice or the motion for admission. Grounds for the objection shall be stated with particularity. The [arbiter-or-] administrative law judge shall rule on the objection within fifteen (15) days of [the filing].

(7) In proceedings before an administrative law judge, if a medical report is admitted as direct testimony, any adverse party may depose the reporting physician in a timely manner as if on cross-examination at its own expense.

Section 10. [47] Interlocutory Relief. (1) At any time during a claim, a party may seek any or all of three (3) forms of interlocutory relief:

(a) Interim payment of income benefits for total disability pursuant to KRS 342.730(1)(b);
(b) Medical benefits pursuant to KRS 342.020;
(c) Rehabilitation services pursuant to KRS 342.710;

(2) Any response to a request for interlocutory relief shall be served upon the claimant within twenty (20) days from the date of the request and thereafter, the request shall be ripe for a decision.

(3) Entitlement to interlocutory relief shall be shown by means of affidavit, deposition, or other evidence of record demonstrating the requesting party is eligible under KRS Chapter 342 and will suffer irreparable injury, loss or damage pending a final decision on the application. Rehabilitation services may be ordered while the claim is pending upon showing that immediate provision of services will substantially increase the probability that the plaintiff will return to work.

(4) If interlocutory relief is awarded in the form of income benefits, the application shall be placed in abeyance unless a party shows irreparable harm will result. The [arbiter-or-] administrative law judge may require periodic reports as to the physical condition of the plaintiff. Upon motion and a showing of cause, or upon the [arbiter-or-] administrative law judge’s own motion, interlocutory relief shall be terminated and the claim removed from abeyance.

An attorney’s fee in the amounts authorized by KRS 342.320 that does not exceed twenty (20) percent of the weekly income benefits awarded pursuant to a request for interlocutory relief may be granted. The approved fee shall be deducted in equal amounts from the weekly income benefits awarded and shall be paid directly to the attorney.

(6) [An-appropriate party seeking] interlocutory relief may use the following forms provided by the department with regard to interlocutory relief:

(a) Motion for interlocutory relief;
(b) Affidavit for payment of medical expenses;
(c) Affidavit for payment of temporary total disability; and
(d) Affidavit regarding rehabilitation services.

Section 11. Benefit Review Conferences. (1) The purpose of the benefit review conference shall be to expedite the processing of the claim and to avoid whenever possible the need for a hearing.

(2) The benefit review conference shall be:

(a) An informal proceeding attended by plaintiff and representatives and the defendant or representatives, attendance may be waived for good cause shown;
(b) Transcript of the proceeding shall not be made.
(c) Representatives of parties shall have authority to resolve disputed issues and settle the claim at the conference.

(3) Ten (10) days before the benefit review conference, the parties shall exchange lists of known witnesses that:

(a) Name each proposed witness;
(b) Summarize the anticipated testimony of each witness; and
(c) For medical witnesses, the summary shall include:

1. The diagnosis reached;
2. Clinical findings and results of diagnostic studies upon which the diagnosis is based;
3. The functional impairment rating assessed by the witness; and
4. Describe any work-related restrictions imposed.

(4) At the benefit review conference, the parties shall:

(a) Attempt to resolve controversies;
(b) Narrow and define issues;
(c) Facilitate prompt discovery by the ultimate trier.

(5) A party may seek postponement of a benefit review conference by motion and good cause shown filed at least fifteen (15) days prior to the date of the conference.

(6) If at the conclusion of the benefit review conference the parties have not reached agreement on all the issues, the administrative law judge shall schedule a final hearing and prepare a summary stipulation of all contested and uncontested issues which shall be signed by representatives of the parties and by the administrative law judge.

(7) Only contested issues shall be the subject of further proceedings.

(8) Upon motion with good cause shown, the administrative law judge may order that additional discovery or proof be taken between the benefit review conference and the date of the hearing and may limit the number of witnesses to be presented at hearing.

Section 12. [Appeals to Administrative Law Judges from Benefit Review Determinations. (1) Within thirty (30) days after the date of the filing of a written benefit review determination or ruling on petition for reconsideration from that benefit review determination by an arbitrator, any party aggrieved by the determination may appeal to an administrative law judge. No appeal shall be taken from a written benefit review determination that does not grant or deny the ultimate relief sought as to all parties without the need for further steps to be taken.

(2) The appeal shall be initiated by filing a "Request for Hearing before an Administrative Law Judge". The proceedings before the administrative law judge shall be de novo and cross appeals shall not be permitted. The appealing party shall be designated as petitioner and all parties against whom the appeal is taken as respondents. In the event that more than one (1) party appeals, the first party to file
through a hearing before an administrative law judge, an order shall be entered by the arbitrator and shall be served upon all parties and the commissioner.

(2) The commissioner shall upon receipt of a transfer order issue an order scheduling a hearing, assigning it to an administrative law judge, and scheduling the time and place of the hearing. In the event that a transfer order is issued for an administrative law judge, the party shall proceed in the manner established in Section 12(9) through (6) of this administrative regulation. The parties shall continue to be designated as plaintiff and defendant after transfer.

Section 16. Evidence - Rule Applicable. (1) The Rules of Evidence prescribed by the Kentucky Supreme Court shall apply in all proceedings before an administrative law judge except as varied by specific statute and this administrative regulation.

(2) Affidavits submitted with an application for resolution of claim and in proceedings before an arbitrator shall constitute evidence before the arbitrator. Affidavits of parties and lay witnesses shall be permitted and encouraged in proceedings before an arbitrator.

(3) Any party may file as evidence before the arbitrator or administrative law judge a statement of hospital, educational, Office of Vital Statistics, Armed Forces, or Social Security, and other public records. An opinion of a physician which is expressed in these records shall not be considered by the arbitrator or administrative law judge in violation of the limitation on the number of physician's opinions established in KRS 342.033.

Section 13. [15] Extensions of Proof Time. (1) Extensions of time for producing evidence may be granted upon [a] showing of circumstances that prevent timely introduction [a circumstance that prevents the party from timely introducing proof]. Motions for extension of time shall not be filed more than five (5) days before the deadline sought to be extended. The motion or supporting affidavit shall set forth:

(a) The efforts to produce the evidence in a timely manner;
(b) Facts which prevent timely production; and
(c) The date of availability of the evidence, the probability of its production, and the materiality of the evidence.

(2) In the absence of compelling circumstances, only one (1) extension of thirty (30) days shall be granted to each side for completion of discovery or proof by deposition.

Section 14. [17] Stipulation of Facts. (1) Refusal to stipulate facts which are not genuinely in issue shall warrant imposition of sanctions as established in Section 12 of this administrative regulation that a party has not had sufficient opportunity to ascertain relevant facts shall not be considered "good cause" in the absence of due diligence.

(2) Upon cause shown, a party may be relieved of a stipulation if the motion for relief is filed at least ten (10) days prior to the date of the hearing, or as soon as practicable after discovery that the stipulation was erroneous. Upon granting relief from a stipulation, the administrative law judge may grant a continuance of the hearing and additional proof time.

Section 15. [18] Discovery and Depositions. (1) Discovery and the taking of depositions shall be in accordance with the provisions of Civil Rules 26 to 37, inclusive, except for Civil Rules 27, 33, and 36 which shall not apply to practice before the administrative law judges or by the arbitrators. Depositions and questions shall be propounded in accordance with Section 9 of this administrative regulation.

(2) Depositions may be taken by telephone if the reporter administering the oath to the witness and reporting the deposition is physically present with the witness at the time the deposition is given. Notice of a telephonic deposition shall relate the following information:

(a) That the deposition is to be taken by telephone;
(b) The address and telephone number from which the call will be placed to the witness;
(c) The address and telephone number of the place where the witness will answer the deposition call; and

(d) [That all] Opposing parties may participate in the deposition either at the place where the deposition is being given, at the place the telephone call is placed to the witness, or by conference call. If a party elects to participate by conference call, that party shall contribute proportionate costs of the conference call.

(2) The commission shall establish a medical qualifications index. An index number shall be assigned to a physician upon the filing of the physician’s qualifications. Any physician who has been assigned an index number may offer the assigned number in lieu of stating qualifications. Qualifications shall be revised or updated by submitting revisions to the commission. Nothing in this rule shall preclude any party from inquiring further into the qualifications of a physician.

Section 16. [46:] Wage Certification. If at any time during theendency of a claim wages are at issue, the employer shall promptly complete and serve a completed form AW-1 on all other parties.

Section 17. [26:] Hearings. (1) At hearing, the parties shall present proof concerning disputed issues. If plaintiff fails to appear, the administrative law judge may dismiss the case without prejudice, or if good cause is shown, the hearing may be continued. 

(2) At the conclusion of the hearing, the claim shall be taken under submission immediately or briefs may be ordered. Briefs shall not exceed fifteen (15) pages in length. Reply briefs shall be limited to five (5) pages. Permission to increase the length of a brief shall be sought by motion. The administrative law judge may announce his decision at the conclusion of the hearing or shall defer decision until rendering a written opinion. A decision shall be rendered no later than sixty (60) days following hearing. The time of filing a petition for reconsideration or notice of appeal shall not begin to run until after the “date of filing” of the written opinion as established by Section 1 of this administrative regulation.

(3) The parties with approval of the administrative law judge may waive the hearing. Waiver of a final hearing shall require agreement of all parties and the administrative law judge. The claim shall be taken under submission as of the date of the order allowing the waiver of hearing [and briefs may be ordered]. A decision shall be rendered no later than sixty (60) days following the date of the order allowing the waiver of hearing.

Section 18. [27:] Petitions for Reconsideration. (1) If applicable, a party shall file a petition for reconsideration within fourteen (14) days of the filing of a [benefit-review determination or a] final order or award of an [arbiter or] administrative law judge, clearly stating the patent error which the petitioners seek to have corrected and setting forth the authorities upon which petitioner relies. The party filing the petition for reconsideration shall tender a proposed order granting the relief requested.

(2) A response shall be served within ten (10) days after the date of filing of the petition.

(3) The [arbiter or] administrative law judge shall act upon the petition within ten (10) days after the response is due.

Section 19. [22:] Benefit Calculations for Settlements. (1) For computing lump sum settlements, the employer shall utilize the present value of the award for the weeks of liability only, not for the entire award period. A discount shall not be taken on past due benefits by the employer or Special Fund. Lump sum settlements shall be calculated as follows:

(a) Determine the entire lump sum liability:

1. Compute the remaining weeks of liability in the award by subtracting the number of weeks past due from the entire number of weeks in the award.
2. Discount the number of weeks remaining in the award at the prescribed discount rate.
3. Multiply the weekly benefit rate by the discounted number of weeks remaining (subparagraph 2 of this paragraph) in award. This product equals the entire future lump sum liability for the award.
4. Add the amount of past due benefits to the future lump sum liability award (subparagraph 3 of this paragraph). The sum represents the entire lump sum value of the award.

(b) Determine the employer's lump sum liability as follows:

1. The employer's future liability shall be computed by determining its total weeks of liability less the number of weeks of liability past due.
2. The number of weeks remaining shall be discounted at the prescribed discount rate and multiplied by the amount of the weekly benefit.
3. Multiply the number of past due weeks by the amount of the weekly benefit.
4. The employer's entire liability for lump sum payment shall be determined by adding the results of paragraph (b)2 and 3 of this subsection.

(c) Determine the Special Fund's portion of the lump sum liability by subtracting the value of the employer's liability in lump sum (paragraph (b) of this subsection) from the entire value of the lump sum settlement (paragraph (a) of this subsection). The remainder shall be the Special Fund's lump sum liability.

(2) If the employer settles its liability for income benefits with the employee for a lump sum payment and a determination is made of the Special Fund's liability, the Special Fund's portion of income benefits shall be paid commencing with the date of approval of the employer's settlement and continuing for the balance of the compensable period.

(3) In computing settlements involving periodic payments, the employer shall pay its liability over the initial portion of the award, based on the number of weeks its liability bears to the entire liability for the claim. The Special Fund shall make all remaining payments for the balance of the compensable period.

(4) Pursuant to KRS 342.265, election by the Special Fund to settle on the "same terms" as the employer shall mean the Special Fund agrees to settle in the same manner as the employer in either a direct paid lump sum or in periodic payments based upon its proportionate share of the permanent disability percentage paid by the employer. "Same terms" shall not include any additional payments the employer included for buy out of medical expenses, temporary total disability, rehabilitation, or other benefits for which the Special Fund is not liable.

(5) Parties involved in a lump-sum settlement of future periodic payments shall use the discount factor computed in accordance with KRS 342.265(3).

Section 20. [29:] Appeals to Workers' Compensation Board. (1) Within thirty (30) days after the date of filing of a final award or order of an administrative law judge any party aggrieved by the order may appeal to the board. As used in this section "final order" shall be determined in accordance with Civil Rule 54.02(1) and (2).

(2) An appeal shall be initiated by the filing of a notice of appeal denoting the appealing party as the petitioner and all parties against whom the appeal is taken as respondents. The administrative law judge who rendered the order appealed from shall be named as a respondent. If appropriate, the Director of the Special Fund or the Director of the Coal Workers' Pneumoconiosis Fund shall be named as a respondent pursuant to KRS 342.120 or 342.1242. The workers' compensation claim number shall be set forth in all pleadings before the board.

(3) Any party other than the petitioner may file a cross-appeal through notice of cross-appeal filed within ten (10) days after notice of appeal is served. The cross-appeal shall designate the parties as appropriate (i.e., petitioner-cross-respondent).

(4) Notice of appeal, cross-appeal and all other pleadings before the board shall be served as provided by the rules established by Section 3 of this administrative regulation. The commissioner shall issue an acknowledgement to all parties of the filing of a direct appeal.

(5) If a ground for the appeal is fraud or misconduct pursuant to KRS 342.265(2), the board shall immediately schedule a hearing on that issue. All subsequent appeal time in the case shall be calculated from the date the transcript of hearing is filed instead of the date of filing of notice of appeal.

(6) Petitioner's brief shall be filed within thirty (30) days of the filing of the notice of appeal. The organization and contents of petitioner's brief shall be as provided in Civil Rule 76.12(4)(c) except an index shall not be required and the appendix shall include copies of decision appealed, petitions for reconsideration, rulings on petitions, and cases cited from federal courts and foreign jurisdictions.

(7) Respondent's brief shall be filed within thirty (30) days of the date petitioner's brief was served. Organization and contents shall be
provided in Civil Rule 76.12(4)(d) except an index shall not be required and the appendix shall include copies of cases cited from federal courts and foreign jurisdictions. If the respondent is also a cross-petitioner, a combined brief shall address issues raised by the cross-appeal.

(8) Failure of a party to timely file a brief may be grounds for imposition of one (1) or more of the following sanctions:
(a) Affirmation or reversal of the final order;
(b) Striking of an untimely brief;
(c) A fine of not more than $500; or
(d) Dismissal of appeal of petitioner’s original brief.

If applicable, the petitioner’s reply brief shall be served within fifteen (15) days after the date on which the last respondent’s brief was served or due, whichever is earlier. The organization and contents of the petitioner’s reply brief shall be as provided in Civil Rule 76.12(4)(e) except that an appendix, index, or contents page shall not be required. If the petitioner is also a cross-respondent, a combined brief shall address issues raised by the cross-petitioner’s brief.

(10) If a cross-appeal has been filed, the cross-petitioner’s reply brief may be served within fifteen (15) days after the date on which the last cross-respondent’s brief was served or due, whichever is earlier. The organization and contents of the cross-petitioner’s reply brief shall be as provided in Civil Rule 76.12(4)(e) except that an appendix, index, or contents page shall not be required.

(11) Petitioner’s brief and the respondent’s brief shall be limited to fifteen (15) pages; reply briefs to five (5) pages, and combined briefs to twenty (20) pages. Permission to increase the length of a brief shall be sought by motion.

(12) All pleadings shall conform to the requirements set forth in Civil Rule 7.02(4) and shall be filed without covers. The style of the case, including the claim number and title of the pleading, shall appear on the first page of the pleading.

(13) The board shall enter its decision affirming, modifying, or setting aside the order appealed from, or may remand the claim to an administrative law judge for further proceedings. Motions for reconsideration shall not be permitted.

(14) Although the Workers Compensation Board will be nonexistent for the interim between July 1, 2000 and July 14, 2000, appeals from final awards or orders of administrative law judges shall nonetheless be filed as prescribed by this section, and the commissioner shall issue an acknowledgement of appeal pursuant to subsection (d) of this section.

(15) If applicable, the decision of the board shall be appealed to the Kentucky Court of Appeals as provided in Civil Rule 76.25.

(16) [(H)] Except for motions that call for final disposition of an appeal, any board member designated by the chairman may dispose of any motion; and, any intermediate order may be issued on the signature of any board member.

Section 21. [H4] Coverage - Insured Status. Upon the filing of an application for resolution of claim, the commissioner shall ascertain whether the employer or any other person against whom a claim is filed and who is not exempted by KRS 342.650 has secured payment of compensation by obtaining insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. If an employer does not have insurance coverage or qualify as a self-insurer, the commissioner shall notify the arbitrator or administrative law judge and all parties by service of a certification of no coverage.

Section 22. [H5] Withdrawal of Records. (1) A portion of any original record of the department shall not be withdrawn except upon an order of the commissioner, an administrative law judge, or a member of the board.

(2) All physical exhibits, including x-rays, shall be disposed of sixty (60) days after the order resolving the claim has become final. A party filing an exhibit may make arrangements to claim an exhibit prior to that time. If an unclaimed exhibit has no money value, it shall be destroyed; if an unclaimed exhibit has a value of more than $100, it shall be sold as surplus property; if an unclaimed exhibit has a value of less than $100, it shall be donated to the appropriate state agency; and, if an unclaimed exhibit has historic value, it shall be sent to the state archives.

Section 23. [H6] Sanctions. Pursuant to KRS 342.310, [an arbitra-
(2) Within thirty (30) days following receipt of a completed request for participation, the director shall notify the employer and all other parties of acceptance or denial of the request.

(3) A denial shall be made upon a finding by the director that the employer failed to defend the claim or entered into a settlement agreement not supported by the medical evidence or which was procured by fraud or mistake. Denial shall be in writing and shall state the specific reasons for the director's action.

(4) Denial of a request for participation may be appealed to an administrative law judge within thirty (30) days following receipt. The administrative law judge shall determine if the denial was arbitrary, capricious, or in excess of the statutory authority of the director, and shall set a date for examination of the right asserted to evidence by an administrative law judge in a benefit review determination or award.

(5) The employer shall promptly commence payment on all of the liability pursuant to the benefit review determination, award, or order and shall continue until the liability of the Kentucky Coal Workers' Pneumoconiosis fund is established. This duty of prompt payment shall continue during pendency of an appeal from denial of a request for participation.

(6) Upon an appeal from the denial of a request for participation, if the Kentucky Coal Workers' Pneumoconiosis fund does not prevail, it shall reimburse the employer for its proportionate share of the liability together with interest at the rate established in KRS 342.040.

[Section 39: Assignment to Arbitrators. (1) The assignment of appropriate claims to arbitrators pursuant to KRS 342.270(2) shall begin March 15, 1997.

(2) Provisions in this administrative regulation which apply solely to practice before an arbitrator shall apply to claims which are assigned to an arbitrator pursuant to KRS 342.270(2) and Section 29(1) of this administrative regulation.]

Section 27. [95:] Forms. After March 15, 1997, the Department of Workers Claims shall not accept applications or forms in use prior to the forms required by and incorporated by reference in this administrative regulation. Outdated applications or forms submitted after March 15, 1997 shall be rejected and returned to the applicant or person submitting the form. If the application or form is resubmitted on the proper form within twenty (20) days of the date it was returned, the filing shall date back to the date the application or form was first received by the commissioner. Otherwise, the date of the second receipt shall be the filing date.

Section 28. [95:] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 101, "Application for Resolution of Injury Claim", (January 1, 1997 Edition), Department of Workers Claims;
(b) Form 102, "Application for Resolution of Occupational Disease Claim", (January 1, 1997 Edition), Department of Workers Claims;
(c) Form 103, "Application for Resolution of Hearing Loss Claim", (January 1, 1997 Edition), Department of Workers Claims;
(d) Form 104, "Plaintiff's Employment History", (January 1, 1997 Edition), Department of Workers Claims;
(e) Form 105, "Plaintiff's Chronological Medical History", (January 1, 1997 Edition), Department of Workers Claims;
(f) Form 106, "Medical Waiver and Consent", (January 1, 1997 Edition), Department of Workers Claims;
(g) Form 107-I, "Medical Report - Injury", (January 1, 1997 Edition), Department of Workers Claims;
(h) Form 107-P, "Medical Report - Psychological", (January 1, 1997 Edition), Department of Workers Claims;
(i) Form 108-OD, "Medical Report - Occupational Disease", (January 1, 1997 Edition), Department of Workers Claims;
(j) Form 108-CWP, "Medical Report - Coal Workers' Pneumoconiosis", (January 1, 1997 Edition), Department of Workers Claims;
(l) Form 109, "Attorney Fee Election", (March 15, 1995 Edition), Department of Workers Claims;
(m) Form 110-1, "Agreement - Injury", (April 15, 1996 Edition), Department of Workers Claims;
(n) Form 110-O, "Agreement - Occupational Disease", (April 15, 1998 Edition), Department of Workers Claims;
(o) Form 111, "Injury and Hearing Loss, "Notice of Claim Denial or Acceptance", (January 1, 1997 Edition), Department of Workers Claims;
(p) Form 111-C, "Notice of Claim Denial or Acceptance", (January 1, 1997 Edition), Department of Workers Claims;
(q) Form 115, "Social Security Release Form", (January 1, 1997 Edition); and Department of Workers Claims;
(r) Form AWW-1, "Average Weekly Wage Form", (January 1, 1997 Edition), Department of Workers Claims;
(s) Lump Sum Settlement Tables, (April 15, 1997 Edition), Department of Workers Claims;
(t) Form MIR-1, Motion for Interlocutory Relief (May 29, 1997 Edition);
(v) Form MIR-2, Affidavit for Payment of Medical Expenses (May 29, 1997 Edition);
(w) Form MIR-3, Affidavit for Payment of Temporary Total Disability (May 29, 1997 Edition);
(x) Form MIR-4, Affidavit Regarding Rehabilitation Services (May 29, 1997 Edition);
(y) Form VRT, Petition for Vocational Rehabilitation Training (May 29, 1997 Edition);
(z) Form MTR-1, Motion to Reopen by Employee (May 29, 1997 Edition);
(aa) Form MTR-2, Motion to Reopen KRS 342.732 Benefits (May 29, 1997 Edition);
(bb) Form MTR-3, Motion to Reopen by Defendant (May 29, 1997 Edition);
(cc) Form WVR, Joint Motion and Agreement to Waive Vocational Rehabilitation Evaluation (May 29, 1997 Edition);
(dd) Form UEF-P, Motion for Payment from Uninsured Employers' Fund (May 29, 1997 Edition).

This material may be inspected copied or obtained at the Department of Workers' Claims Monday through Friday, 8 a.m. to 4 p.m. at the following locations:

(a) Frankfort - Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;
(b) Paducah - 22OB North 8th Street, Paducah, Kentucky 42001; and
(c) Pikeville - 412 Second Street, Pikeville, Kentucky 41501.

WALTER W. TURNER, Commissioner
STEPHEN B. COX, General Counsel
APPROVED BY AGENCY: June 26, 2000
FILED WITH LRC: June 27, 2000 at 4 p.m.
CONTACT PERSON: Carla H. Montgomery, Counsel, Kentucky Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, Telephone Number: (502) 564-5550, Ext. 464, Fax Number: (502) 564-5934.

REGULATORY IMPACT ANALYSIS

Contact Person: Carla H. Montgomery

(1) Type and number of entities affected: This administrative regulation will affect the parties to workers compensation claims. Employers, employees, insurers, the Uninsured Fund, and attorney representing these persons or entities will be affected. Over 5,000 contested workers compensation claims are filed with the Department of Workers' Claims 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: No public comments have been received at this time. The department does not anticipate an impact on cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received at this time. The department does not anticipate an impact on the cost of doing business because of this regulation.

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

1. First year following implementation: The arbitrator has been
eliminated from the claims process. Administrative law judges will handle all aspects of the workers' injury claims. Many of the procedures are essentially the same. So, the majority of implementation will be administrative for the department.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings.
(b) First year: The agency will make administrative adjustments to provide for the elimination of the arbitrators. This regulation is not expected to impact costs or savings.
(c) Continuing costs or savings: Same as above.
(d) Additional factors increasing or decreasing costs: None
(e) Reporting and paperwork requirements: The department will shift claims to administrative law judges instead of arbitrators but expect no major change in reporting or paperwork. (2) (d) (e) Assessment of anticipated effect on state and local revenues: None.

(c) Source of revenue to be used for implementation and enforcement of administrative regulation: The normal budget allocations for Department of Workers' Claims. No additional source is necessary.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:
(a) Geographical area in which administrative regulation will be implemented. No public comments have been received at this time. This administrative regulation should have no impact on the economy.
(b) Kentucky: See response to (a).

(7) Assessment of alternative methods; reasons why alternatives were rejected: HB 992 enacted in the 2000 Legislative Session requires that these procedural changes be made. If the department did not implement the legislative changes, the department would not be in compliance with these statutory changes.

(a) Assessment of expected benefits: The department will be in compliance with HB 992, claimants and employers will better understand the procedures.

(b) Identify effects on public health and environmental welfare of the administrative regulation in which implemented and on Kentucky: There are no effects on health and environmental welfare.
(c) State whether a detrimental effect on environment and public health would result if not implemented: No effects.
(d) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflicting statute, regulation or policy.

(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Additional comments: None

(11) Tiering: Tiering is not appropriate since multiple classes are not involved. The proposed amendments apply equally to all litigants before administrative law judges and the Workers' Compensation Board.

WALTER W. TURNER, Commissioner
LABOR CABINET
Department of Workers' Claims
(Emergency Amendment)


RELATES TO: KRS 342.020, 342.035, 342.125, 342.260, 342.325, 342.735
STATUTORY AUTHORITY: KRS 342.020, 342.735
EFFECTIVE: June 27, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the Commissioner of the Department of Workers' Claims to promulgate administrative regulations necessary to implement KRS Chapter 342. KRS 342.326 requires that a question arising under KRS Chapter 342 which is not settled by agreement of the parties shall be determined by an [arbiter or] administrative law judge. KRS 342.735(1) requires the commissioner to promulgate administrative regulations to expedite the payment of medical expense benefits. This administrative regulation establishes a procedure for the resolution of a medical [fee] dispute before an [arbiter or] administrative law judge.

Section 1. Procedure. (1) A dispute regarding payment, nonpayment, reasonableness, necessity, or work-relatedness of a medical expense, treatment, procedure, statement, or service which has been rendered or will be rendered under KRS Chapter 342 shall be resolved by an arbiter or administrative law judge following the filing of a Form 112 (Medical [Fee] Dispute).

(2) Form 112 may be filed by an employee, employer, carrier or medical provider.

(a) The Form 112 shall be accompanied by the following items:
1. Copies of all disputed bills;
2. Supporting affidavit setting forth facts sufficient to show that the provider is entitled to the relief sought;
3. Necessary supporting expert testimony; and
4. The final decision from a utilization review or medical bill audit with the supporting physician [medical opinion].

(b) A single Form 112 may encompass statements, services, or treatment previously rendered as well as future statements, services, or treatment of the same nature or for the same condition, if specifically stated.

(c) To seek adjudication of a dispute involving medical expenses, an employee, provider of medical services, employer or employer's medical payment obligor shall file a Form 112.

(d) If an application for adjustment of claim concerning the injury or disease which is the subject of the dispute has not been filed, copies of the Form 112 and attachments sufficient to show the treatment was authorized in writing. The Form 112 and attachments shall be paid by the provider on the named parties.

(e) An opposing party may within twenty (20) days after service of the Form 112 file a response, accompanied by an affidavit setting forth facts sufficient to show that the payment was not entitled to the relief sought within twenty (20) days after service of the Form 112.

(f) A response shall be served on the provider and the parties.

(g) The [Form 112] dispute shall be assigned to the Frankfort motion docket, where it shall be [either] summarily decided upon the pleadings or assigned for further proceedings before an [arbiter or] administrative law judge.

(h) If an application for adjustment of claim concerning the injury or disease which is the subject of the dispute, the Form 112 shall be served on the claimant on the named parties. The Form 112 shall further file a motion to join the medical provider as a party to the claim. This motion shall conform with the requirements of 003 KAR 25:010, Section 4.

(i) Following resolution of a workers' compensation claim by final [opinion or] order [of an arbiter or administrative law judge, including an order approving settlement of a disputed claim], a motion to reopen pursuant to 003 KAR 25:010, Section 4(6), shall be filed in addition to the Form 112.

PAUL E. PATTON, Governor

- 371 -
(a) Unless utilization review has been initiated, the motion to re-open and Form 112 shall be filed within thirty (30) days following receipt of a complete statement for services pursuant to 803 KAR 25:096.

(b) The motion to reopen and Form 112 shall be served on the parties, upon the employee, even if represented by counsel, and upon the medical providers whose services or charges are at issue. If appropriate, the pleadings shall also be accompanied by a motion to join the medical provider as a party.

(c) This dispute shall be assigned to the Frankfort [judge] motion docket, where it may [shall] be either summarily decided upon the pleadings, or [be] assigned to an administrative law judge for further proof and final resolution.

(7) If there is a pending de novo hearing before an administrative law judge, from an arbitrator’s determination, the Form 112 shall be filed with the assigned administrative law judge who shall also render a decision on the medical dispute.

(8) [(9)] Except as provided by paragraph (b) of this subsection, a Form 112 shall be accompanied by a motion for a partial remand to the administrative law judge assigned to the claim if an appeal is pending before the Workers’ Compensation Board concerning the injury or disease which is the subject of the dispute.

(9) [(10)] In entitlement to medical services is dependent upon resolution of an issue on appeal, the Form 112 shall be accompanied by a motion to the Workers’ Compensation Board to hold the Form 112 in abeyance pending a final decision on the appeal.

(10) [(11)] If the contested expense is subject to utilization review, a medical [fee] dispute shall not be filed prior to exhaustion [completion] of the utilization review process. [The thirty (30) day period for filing a medical fee-dispute may be followed by the utilization review process. Notice of utilization review shall be provided to the affected parties pursuant to 803 KAR 25:096.] The employer or its medical payment obligor shall have thirty (30) days following the final utilization review [medical bill audit] decision to file a medical [fee] dispute.

(11) [(12)] Repeated filing of identical Form 112’s concerning the same subject matter shall not be necessary if an arbitrator or administrative law judge, following the procedures established in 803 KAR 25:010, Section 23.

A party aggrieved by a decision of an arbitrator in a medical fee-dispute may appeal to an administrative law judge by following the procedures in 803 KAR 25:010.

A party aggrieved by a decision of the administrative law judge in a medical [fee] dispute may appeal to the Workers’ Compensation Board by following the procedures established in 803 KAR 25:010, Section 23.

Section 2. In accordance with KRS 342.310, a sanction:

(1) Shall be assessed, as appropriate, if:

(a) An employer or a medical payment obligor challenges a bill without reasonable medical or factual foundation; or

(b) A medical provider, without reasonable foundation, submits a bill for a nonwork-related condition to an employer or its medical payment obligor; and

(2) May be imposed if a movant files a medical [fee] dispute prior to exhaustion of the required utilization review or medical bill audit procedures.

Section 3. Expected Medical [Fee] Disputes. (1) If a dispute arises requiring expedited determination of the reasonableness, appropriateness or employer’s liability for proposed medical care, the lack of which could lead to serious physical or mental disability or death, the employee or employer shall file a written request on Form 120EX to seek an expedited determination. The Form 120EX shall be filed with:

(a) An affidavit of the employee or other witness that the injury or disease which is the subject of the dispute is compensable under KRS Chapter 342 in the format prescribed in Appendix A.

(b) An affidavit of a physician which explains why failure to obtain or undertake the proposed medical care within forty-five (45) days could lead to serious physical or mental disability or death of the employee. The physician’s affidavit shall set forth the diagnosis of the patient, the clinical and diagnostic findings upon which the diagnosis is based, the proposed treatment, and reason why immediate initiation of the proposed treatment is necessary. If feasible, an estimate of the cost of the proposed treatment shall be presented. A physician’s affidavit shall comply with the format established in Appendix B.

(c) Other affidavit or authenticated document necessary to demonstrate that the movant is entitled to the relief sought.

(2) If a claim is currently assigned to an arbitrator or administrative law judge, the written request shall be directed to that arbitrator or administrative law judge.

(3) The Form 120EX and attachments shall be filed in triplicate with the commissioner who shall serve copies on the named parties. A respondent to a Form 120EX may file a response within ten (10) days of the date on which the Form 120EX is served by mail. Service shall be deemed complete the third day after mailing by the commissioner.

(4) A response shall be accompanied by an affidavit setting forth facts sufficient to demonstrate that the movant is not entitled to the relief sought, and shall be served on the other parties by the respondent.

(5) The arbitrator or administrative law judge may refer the matter to a worker’s compensation specialist or an ombudsman to attempt to effectuate a resolution of the dispute.

(6) The arbitrator or administrative law judge to whom a request for expedited determination of medical issues is assigned shall issue a ruling within seven (7) days after expiration of the response time.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 112, "Medical Fee Dispute", [June, 2000 [August 15, 1996]]. Department of Workers Claims; and

(b) Form 120EX, "Request for Expedited Determination of Medical Issue", [July 14, 1994]. Department of Workers Claims.

(2) This material may be inspected, copied, or obtained at the Department of Workers Claims Monday through Friday, 9 a.m. to 4 p.m. at the following locations:

(a) Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;

(b) 410 West Chestnut Street, Louisville, Kentucky 40202;

(c) 220B North 8th Street, Paducah, Kentucky 42001; or

(d) 101 Summit Drive, Pikeville, Kentucky 41501.

APPENDIX A

AFFIDAVIT OF EMPLOYEE

Affiant, (Name), first being duly sworn, states that the attached Request for Expedited Determination of Medical Issue (Form 120EX) concerns treatment for a condition compensable under the Kentucky Workers’ Compensation Act. Affiant further states as follows:

1. Date and time of work-related injury or date on which occupational disease was discovered;

2. Brief description of how injury occurred or how occupational disease was acquired;

3. Date and identity of person to whom notice of injury or occupational disease was given;

4. Medical treatment at issue;

5. Attempts, if any, to obtain approval for contested treatment.

Signature:

STATE OF:

COUNTY OF:

Subscribed and sworn to before me by (name) this (day) day of (month), 19(year).

Notary Public:

My commission expires:

APPENDIX B

AFFIDAVIT OF PHYSICIAN

EXPEDITED MEDICAL DISPUTE

Affiant (Name), a physician whose area of specialization is (specialization), first being duly sworn, states that the attached Request for Expedited Determination of Medical Issue (Form 120EX) concerns a
work-related injury or disease.

(1) The following medical care is required: (describe proposed medical care)

(2) The current working diagnosis is as follows:

(3) The proposed treatment is medically necessary because:

(4) The estimated cost of the proposed treatment is:

Affiant further states that failure of [name of workers' compensation patient] to obtain or undertake this proposed medical care within the next forty-five (45) days could lead to serious physical or mental disability or death because:

Signature:

W.C. Medical Index No.:

Address:

STATE OF:

COUNTY OF:

Subscribed and sworn to before me by (name) this (day) day of (month), 19(year).

Notary Public:

My commission expires:

WALTER W. TURNER, Commissioner

STEPHEN B. COX, General Counsel

APPROVED BY AGENCY: June 26, 2000

FILED WITH LRC: June 27, 2000 at 4 p.m.

CONTACT PERSON: Carla H. Montgomery, Counsel, Kentucky Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, Telephone Number: (502) 564-5550, Ext. 464, Fax Number: (502) 564-5934.

REGULATORY IMPACT ANALYSIS

Contact Person: Carla H. Montgomery

(1) Type and number of entities affected: All injured employees in Kentucky with disputes regarding the payment of medical expenses, medical providers who provide services for work-related injuries, and medical payment obligors.

(a) Impact and indirect costs or savings on the:

(b) 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 have been received at this time. The department does not anticipate an impact on cost of living and employment.

(c) 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 have been received at this time. The department does not anticipate an impact on the cost of doing business because of this regulation.

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

1. First year following implementation: The arbitrator has been eliminated from the claims process. Administrative law judges will handle all aspects of workers' injury claims. Many of the procedures are essentially the same. So, the majority of implementation will be administrative for the department.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

(b) The agency will make administrative adjustments to provide for the elimination of the arbitrators. This regulation is not expected to impact costs or savings.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The department will shift claims to administrative law judges instead of arbitrators but expects no major change in reporting or paperwork.

(c) Assessment of anticipated effect on state and local revenues: None

(d) Source of revenue to be used for implementation and enforcement of administrative regulation: The normal budget allocations for Department of Workers' Claims. No additional source is necessary.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments have been received at this time. This administrative regulation should have no impact on the economy.

(b) Kentucky: See response to (a).

(7) Assessment of alternative methods; reasons why alternatives were rejected: HB 982 enacted in the 2000 Legislative Session requires that these procedural changes be made. If the department did not implement the legislative changes, the department would not be in compliance with these statutory changes.

(8) Assessment of expected benefits: The department will be in compliance with HB 992, and claimants and employers will better understand the procedures.

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

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

(c) If detrimental effect would result, explain detrimental effect: N/A

(d) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflicting statute, regulation or policy.

(e) Necessity of proposed regulation if in conflict: N/A

(f) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Additional comments: None

(11) Tiering: Tiering is not applied, because the regulation will apply equally to employees and employers and all others involved with medical fee disputes.

STATEMENT OF EMERGENCY

803 KAR 25:070E

The Department of Workers' Claims must amend this administrative regulation to comply with the changes of HB 992. KRS 342.320 requires the administrative law judge and arbitrator to approve the payment of the attorney's fees. The arbitrator has been eliminated from the workers' claims system. The amendments will update this administrative regulation and bring it into compliance with statutory requirements. HB 992 eliminates arbitrators from the claim process. It is imperative for the Department of Workers' Claims to file the amendments as an emergency to bring this administrative regulation into compliance with the statutory changes in HB 992. If an emergency is used, the department may take an undue delay in the injury claims process. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed at a later date.

PAUL E. PATTON, Governor

WALTER W. TURNER, Commissioner

LABOR CABINET

Department of Workers Claims

(Emergency Amendment)


RELATES TO: KRS 342.320

STATUTORY AUTHORITY: KRS 342.260

EFFECTIVE: June 27, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.250 requires the Workers' Compensation Board to prepare such rules and administrative regulations as it considers necessary to carry on its work and for carrying out the provisions of KRS Chapter 342. KRS 342.250 requires the administrative law judge [Workers' Compensation Board] to approve the payment of the attorney's fee in any case involving benefits under KRS Chapter 342 and to compute the final payments of benefits payable under the award to a lump sum for that purpose. KRS Chapter 342.120 provides the method by which an employer or its insurance carrier and the Special Fund share liability for awards for injuries occurring and disabilities arising on or after July 15, 1982. The function of this administrative regulation is to establish a mechanism for crediting the above referenced parties for the payment of attorneys' fees in these cases.
VOLUME 27, NUMBER 2—AUGUST 1, 2000

WALTER W. TURNER, Commissioner
STEPHEN B. COX, General Counsel
APPROVED BY AGENCY: June 26, 2000
FILED WITH AGENCY: June 27, 2000 at 4 p.m.
CONTACT PERSON: Carla H. Montgomery, Counsel, Kentucky Department of Workers’ Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, Telephone Number: (502) 564-5590, Ext. 464, Fax Number: (502) 564-5934.

REGULATORY IMPACT ANALYSIS

Contact Person: Carla H. Montgomery

(1) Type and number of entities affected: All attorneys representing claimants and employers, carriers, employers, Special Fund who are involved in injury claims. Over 5,000 disputed injury claims are filed with the Department of Workers’ Claims 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: No public comments have been received at this time. The department does not anticipate an impact on cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received at this time. The department does not anticipate an impact on the cost of doing business because of this regulation.

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

1. First year following implementation: The arbitrator has been eliminated from the claims process. Administrative law judges will handle all aspects of the claims. Many of the procedures are essentially the same. So, the majority of implementation will be administrative for the department.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The agency will make administrative adjustments to provide for the elimination of the arbitrators. This regulation is not expected to impact costs or savings.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The department will shift claims to administrative law judges instead of arbitrators but expects major change in reporting or paperwork.

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

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The normal budget allocations for Department of Workers’ Claims. No additional source is necessary.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments have been received at this time. This administrative regulation should have no impact on the economy.

(b) Kentucky: See response to (a).

(7) Assessment of alternative methods: Reasons why alternatives were not selected: HB 992 was enacted in the 2000 Legislative Session requires that these procedural changes be made. If the department did not implement the legislative changes, the department would not be in compliance with these statutory changes.

(8) Assessment of expected benefits: The department will be in compliance with HB 992, and claimants and employers will better understand the procedures.

(a) Identity effects: Public health and environmental welfare of the geographical area in which implemented and on Kentucky: There are no effects on health and environmental welfare.

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

(c) If detrimental effect would result, explain detrimental effect: None.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No con-
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

flicting statute, regulation or policy.
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed ad-
mnistrative regulation with conflicting provisions: N/A
(10) Additional comments: None
(11) Tiering: Tiering is not applied, because the regulation will apply equally to all attorneys applying for attorney fees and for all
carriers, employers, and persons involved in workers' compensation
injury claims.

STATEMENT OF EMERGENCY
803 KAR 25:101E

The Department of Workers' Claims is amending this administra-
tive regulation to bring the administrative regulation into compliance
with the statutory changes of HB 992. The amendments eliminate
references to arbitrators and remove arbitrators from the process. In
order to administer the changes made by the Legislature in the 2000
Session through HB 992, the Commissioner of the Department of
Workers' Claims must make immediate, emergency changes to the
claim procedures. The arbitrators were a major component in the
claims process and handle thousands of claims. It is imperative that
the department make immediate changes to compensate the arbitra-
tors' workload. This will insure a smooth transition for HB 992 changes
and prevent a delay in the administration of injured workers' claims.
This emergency administrative regulation shall be replaced by an
ordinary administrative regulation which will be filed at a later date.

PAULE P. PATTON, Governor
WALTER W. TURNER, Commissioner

LABOR CABINET
Department of Workers' Claims
(Emergency Amendment)

803 KAR 25:101E. Provision of workers' compensation reha-
bilitation services.

RELATES TO: KRS 342.710
STATUTORY AUTHORITY: KRS 342.260, 342.710
EFFECTIVE: June 27, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260
requires the Department of Workers' Claims to promulgate adminis-
trative regulations to carry out its work and the work of the administra-
tive law judges and arbitrators. KRS 342.710(3) requires rehabilitation
services for an employee who has suffered an injury covered by KRS
Chapter 342. This administrative regulation establishes requirements
for the provision of rehabilitation services pursuant to KRS 342.260
and 342.710.

Section 1. Definitions. (1) "Administrative law judge" means an
individual appointed pursuant to KRS 342.230(3).
(2) "Arbitrator" means an individual appointed pursuant to KRS
342.230(6).
(3) "Commission on Accreditation of Rehabilitation Facilities
(CARF)" means the national organization which accredits rehabili-
tation facilities.
(4) "Directory of Qualified Rehabilitation Facilities" means the
directory of facilities in Kentucky which are licensed pursuant to KRS
Chapter 216B and which are accredited by CARF in either compre-
ensive inpatient rehabilitation or outpatient medical rehabilitation
whose application for accreditation is pending.
(5) "Directory of Vocational Evaluation Facilities" means the
directory of facilities in Kentucky which are
(a) Accredited by CARF in the area of comprehensive vocational
evaluation services; or
(b) Assessment centers operated by the Department for Technical
Education.
(6) "Medical rehabilitation services" means those medically
oriented services beyond basic medical surgical and hospital treat-
ment which are necessary for the accomplishment of feasible, practi-
cal, and justifiable physical rehabilitation goals.
(7) "Rehabilitation services" means both medical rehabilita-
tion services and vocational rehabilitation services provided pursuant
to KRS 342.710.
(7) (6) "Vocational evaluation" means a comprehensive process
which utilizes a combination of structured interviews and testing.
(8) (6) "Vocational rehabilitation services" means those vocation-
ally related services which are necessary to restore an injured em-
ployee to suitable employment.

Section 2. Application for Listing in Directory of Qualified Reha-
bilitation Facilities. (1) An application for listing in the Directory of
Qualified Rehabilitation Facilities shall not be required for a facility fully
accredited by CARF in either comprehensive inpatient rehabilitation or
outpatient medical rehabilitation as the names of those facilities are
obtained from CARF.
(2) Provisional listing in the Directory of Qualified Rehabilitation
Facilities may be granted by the Department of Workers' Claims to a
facility:
(a) Which is licensed through the Cabinet for Human Resources
pursuant to KRS Chapter 216B;
(b) Whose application to CARF for accreditation is pending; and
(c) That complies with the requirements established in subsection
(3) of this section.
(3) A facility shall file the following with the Department of Work-
kers' Claims to request provisional listing:
(a) Letter requesting provisional listing in the directory; and
(b) Copy of the application which has been submitted to CARF for
accreditation in comprehensive inpatient rehabilitation or outpatient
medical rehabilitation.
(4) The provisional listing shall be valid for one (1) year unless
CARF accreditation is granted or denied prior to that time.

Section 3. Referral of an Injured Employee by the Self-Insured
Employer or Insurance Carrier. (1) A self-insured employer or insur-
ance carrier may voluntarily refer an injured employee at any time for
rehabilitation case management services involving the coordination of
medical rehabilitation services and vocational rehabilitation services.
(2) A self-insured employer or insurance carrier shall refer an
injured employee to a case manager who is qualified as either a certi-
ﬁed case manager, certiﬁed rehabilitation counselor, certiﬁed insur-
ance rehabilitation specialist, or certiﬁed rehabilitation registered
nurse.

Section 4. Referral of an Injured Employee by an Administrative
Law Judge (or Arbitrator). (1) An administrative law judge (or arbitra-
tor) may refer an injured employee to a Department of Workers' Claims
employee for implementation of rehabilitation services pursuant to
KRS 342.710(3).
(2) A Department of Workers' Claims employee shall refer the
employee for a vocational evaluation at a facility listed in the Directory
of Vocational Evaluation Facilities.
(3) Absent medical incapacitation or another compelling circum-
stance, the employee shall attend the vocational evaluation when
scheduled.
(4) The cost of the vocational evaluation including travel expenses
shall be paid by the employer or other party designated by the adminis-
trative law judge (or arbitrator).
(5) The employee's travel expenses shall be reimbursed in accor-
dance with 200 KAR 2006.
(6) Upon receipt of the vocational evaluation report the employee
and the employer or insurance carrier shall cooperate in the imple-
mementation of services designed to restore the employee to suitable
employment.

WALTER W. TURNER, Commissioner
STEPHEN B. COX, General Counsel
APPROVED BY AGENCY: June 26, 2000
FILED WITH LRC: June 27, 2000 at 4 p.m.
CONTACT PERSON: Carla H. Montgomery, Counsel, Kentucky
Department of Workers' Claims, Perimeter Park West, Building C,
1270 Louisville Road, Frankfort, Kentucky 40601, Telephone Number:
(502) 564-5550, Ext. 464, Fax Number: (502) 564-5934.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

REGULATORY IMPACT ANALYSIS

Contact Person: Carla H. Montgomery

(1) Type and number of entities affected: Injured workers for whom vocational rehabilitation evaluations are ordered by an adjudicator; all carriers paying for vocational rehabilitation evaluations; facilities providing vocational rehabilitation evaluations; and injured workers.

(2) Direct and indirect costs or savings: 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 have been received at this time. The department does not anticipate an impact on cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments were received. The department does not anticipate an effect on the cost of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs: None.

1. First year: The department will not have any effect on costs or savings.

2. Second and subsequent years: Same as first year.

3. Additional factors increasing or decreasing costs: None.

4. Reporting and paperwork requirements: No effect.

5. Assessment of anticipated effect on state and local revenues: None.

6. Source of revenue to be used for implementation and enforcement of administrative regulation: The normal budget allocations for Department of Workers' Claims.

7. Economic impact, including effects of economic activities arising from administrative regulation:

(a) Geographical area in which administrative regulation will be implemented: No public comments have been received, but the department does not anticipate any economic impact.

(b) Kentucky: No public comments have been received, but the department does not anticipate any economic impact.

8. Assessment of alternative methods: Reasons why alternatives were rejected: The department must comply with the statutory requirements of HB 992. To try another alternative would cause the regulation to be in direct contradiction to the statutory requirements.

9. Assessment of expected benefits: Bringing the department into statutory compliance with HB 992.

10. Additional comments: None.

11. Tiering: Tiering is not applied because the regulation is applied equally to injured workers for whom vocational rehabilitation evaluations are ordered by administrative law judges; carriers paying for vocational rehabilitation evaluations; and facilities providing vocational rehabilitation evaluations.

STATEMENT OF EMERGENCY

806 KAR 4:010E

This emergency administrative regulation establishes fees and taxes for insurance licensees in the Commonwealth. HB 875, related to agent licensing reform becomes effective on July 14, 2000. The changes in this bill require the department to take immediate measures toward the implementation of its components. Because HB 875 has altered existing licenses and created new ones, along with significantly altering terminology, it is imperative that this emergency administrative regulation be amended to comply in order to avoid a disruption in the marketplace, as well as in the lives of insurance professionals. Additionally, many new licenses were created for which fees are necessary in order for the Department of Insurance to be able to regulate these new entities. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 4:010E. Fees of the Department of Insurance.


STATUTORY AUTHORITY: KRS 61.874(4), 304.2-110, 304.4-010, 1994 Ky. Acts ch. 262, sec. 4(4)

EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that [authorize] the Commissioner of Insurance may promulgate reasonable rules and [revised] administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.4-010 requires the Commissioner of Insurance to prescribe those services for which fees shall be charged and the amounts of the fees. Under KRS 61.874(4), an administrative agency shall charge fees based on costs for public records used for commercial purposes. This administrative regulation prescribes these services for which the Department of Insurance will charge fees and the amounts of those fees. [Under 1994 Ky. Acts ch. 262, sec. 4(4) an administrative agency shall charge fees based on costs for public records used for commercial purposes.]

Section 1. The commissioner shall collect in advance fees as follows:

(1) Annual statement.
   (a) Filing each year, $100.
   (b) Filing additional or supplemental statement in the same year, $100.

(2) Filing charter documents.
   (a) Original charter document, bylaws, and records of organization, or certified copies thereof required to be filed, $100.
   (b) Amended charter documents, bylaws, and records of organization, or certified copies thereof required to be filed, fifty (50) dollars.

(3) Certificate of authority.
   (a) Issuance of original certificate, $500.
   (b) Amending, to add a line, fifty (50) dollars.
   (c) Renewal, each year, $100.

(4) Organization of domestic mutual insurers: filing application for solicitation permit and issuance of such permit, $200.

(5) Self-insurer.
   (a) Application to become self insurer under subtitle 39, $200.
   (b) Notification of self-insurance program under subtitle 32, fifty (50) dollars.

(6) Agent licenses, foreign and alien insurers.
   (a) Agent license, per insurer represented, biennial, forty (40) dollars.
   (b) Temporary license as agent, twenty (20) dollars.
   (c) Nonresident agent, per insurer represented, biennial, fifty (50) dollars.
   (d) Resident business entity [corporate or partnership] agent, per insurer represented, biennial, $100.
   (e) Nonresident business entity [corporate or partnership] agent, per insurer represented, biennial, $120.

(7) Surplus lines broker, reinsurance intermediary, or managing
general agent, biennial, $100.
(8) [Solicitor license, biennial, forty (40) dollars.
(9) Adjuster license, biennial, fifty ($50) dollars.
(11) Administrator license, biennial, fifty ($50) dollars.
(12) Consultant license, biennial, $100.
(13) Agent licenses for risk retention agents, fraternal benefit societ-
ettes, subtitle 32 corporations, or health maintenance organizations, and corporate or partnership agents.
[14] Other special licenses, per fraternal benefit society, subtitle 32 corporation, or health maintenance organization; or pre-paid dental-plan organization, represented, biennial.
(15) Residents, forty ($40) dollars.
(16) Nonresidents, fifty ($50) dollars.
(17) Fee for approval of prelicensing training programs fifty ($50) dollars, biennial renewal, fifty ($50) dollars.
(18) Fee for approval of instructors five ($5) dollars per instructor biennial renewal, five ($5) dollars per instructor.
(19) Filing agent [and solicitor] continuing education courses for:
(a) Approval, five ($5) dollars per hour of continuing education credit; minimum of five (5) hours, maximum of $300.
(b) Biennial renewal, five ($5) dollars per hour of continuing education credit; minimum of five (5) hours, maximum of $300.
(20) Late fees for instructions:
1. Residents, forty ($40) dollars.
2. Nonresidents, fifty ($50) dollars.
(21) Late fees for business entities:
1. Residents, $100.
2. Nonresidents, $120.
(22) Examination for or in connection with licensing of agents, [agents], and consulting, fifty ($50) dollars.
(23) Annual registration fee of unauthorized insurer under KRS 304.11-020(2), $500.
(24) Rental vehicle insurance.
(a) Agent per insurer represented, biennial, $100.
(b) Registration per location, biennial, fifty ($50) dollars.
(c) Managing employee, forty ($40) dollars.
(25) Specialty credit insurance.
(a) Producer per insurer represented, biennial, $1500.
(b) Registration per location, biennial, $500.
(c) Managing employee, forty ($40) dollars.
(26) Registration fee of industrial insurers, government entity insureds, and exempt commercial policyholders under KRS 304.11, $100.
(27) Advisory organizations, statistical agents, and form providers.
(a) Application for license, $500.
(b) Annual renewal, $100.
(28) Rate and form filings.
(a) Rate level revision filing in a noncompetitive market or other rate level revision filings subject to prior approval by the commissioner, $100.
(b) Credit life or health insurance filing requiring review for compliance with KRS 304.19-080, $100.
(c) Other rate and form filings, five ($5) dollars.
(29) Insurance premium finance companies.
(a) Application for license, $500.
(b) Annual renewal, $100.
(30) Cost of administering subtitle 32 per membership contract in force on December 31 of each year, except the health insurance contract or contracts for state employees as authorized by KRS 18A.225, ten ($10) cents.
(31) Computer printouts of lists, computer printouts of mailing labels, and electronic or digital media [magnetic tape].
(a) Agents:
1. Property, casualty, surety, marine and transportation, mortgage guaranty, for computer print-outs of lists or mailing labels, $300, for electronic or digital media, $300.
2. Life and health, for computer print-outs of lists or mailing labels, $300, for electronic or digital media, $265. [General lines or life and health, $300: 2. General lines or life and health magnetic tape, $265;]
3. All other lines, $100.
4. Listing for each ZIP code, fifty ($50) dollars.
5. Appointments (activity) of a specific agent, five ($5) dollars.
6. Agent, consulting, managing general agents, [agents], surplus lines brokers, and third party administrators, ninety ($90) dollars.
7. [Commissioner directories:]
1. All authorized insurers, ninety ($90) dollars.
2. Insurers by line of insurance, ninety ($90) dollars.
3. Appointments (activity) by a specific insurer, fifty ($50) dollars.
(32) Business entity agents and specialty credit insurance produce-
ners [corporate or partnership agents]:
2. Business entity [corporate or partnership agents] by line of insurance, ninety ($90) dollars.
3. Appointments (activity) of a specific business entity [corporate or partnership agent], ten ($10) dollars.
(33) Provider agreements, twenty-five (25) dollars.
(34) Subcontract agreements, twenty-five (25) dollars.
(35) Risk sharing arrangements, fifty ($50) dollars.
(36) Miscellaneous services.
(a) Filing other documents, each, fifty ($50) dollars.
(b) Commissioner's certificate under seal, other than certificates, licenses, and other documents provided for in this section, each, fifty ($50) dollars.
(c) For copies of any document on file with the commissioner, per page, thirty (30) cents.
(37) Copy of annual statements, per page, one ($1) dollar.
Section 2. The biennial renewal fees specified in Section 1(6), (7), (8), (9), (10), (11), (12), and (13) of this administrative regulation are payable as follows:
(1) Licensees for life, health, or life and health insurance shall renew their licenses on or before March 31 in odd numbered years and biennially thereafter; and
(2) Licensees for casualty, marine and transportation, property, surety, mortgage guaranty, multiple line insurers, risk retention agent, fraternal benefit societies, or reinsurance intermediaries shall renew their licenses on or before March 31 in even numbered years and biennially thereafter.
(3) Original license and appointment fees shall be the amount stated and not prorated.
Section 3. When a statute or administrative regulation requires payment of a fee as provided in KRS 304.4-010, it refers to a fee as specified in this administrative regulation.
GALE PEARCE, General Counsel
GEOGHE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 11, 2000
FILED WITH LRC: July 12, 2000 at 3 p.m.
REGULATORY IMPACT ANALYSIS
Contact Person: Vicky Horn
(1) Type and number of entities affected: All persons or entities holding licenses from the Department of Insurance. All persons or entities who will be applying for new licenses created by bills passed in the 2000 session of the General Assembly, i.e., specialty credit producers (HB 595) and rental vehicle agents (HB 354). All businesses engaged in the sale of rental vehicle insurance and specialty credit producers. Specialty credit will include jewelry stores, electronic stores, appliance stores, and businesses of this kind which sell credit insurance on financed purchases.
(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 anticipated.

(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 comment has been received, minimal increase in cost is anticipated.

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

1. First year following implementation: Minimal impact is expected to occur within the first year as industry complies with changes in licensing.

2. Second and subsequent years: No effect

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be an impact on the Department of Insurance in man-hours as new examinations will have to be developed for new licensing requirements. It is anticipated that at least 1 extra person may have to be hired, as paperwork will be increased by the addition of licensing categories.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Minimal change, in type, moderate change in amount.

(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: Budget of the Department of Insurance.

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

(a) Geographical area in which administrative regulation will be implemented: No impact.

(b) Kentucky: No public comment has been received, no impact is anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were discussed.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No impact on environmental or public health is anticipated.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect is anticipated.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflicts are present.

(10) Any additional information or comments: None

(11) Tiering: Is tiering applied? Fees apply to all licensees within each category equally. Therefore tiering does not apply to licensing. Tiering does not apply to requests for information as fees are assessed in accordance with the difficulty of the request and the amount of time, supplies and equipment that is used to comply with the request for information. However, it is the type of information requested and the manner in which it is requested that prompts the difference in fees; not the status of the individual or entity about which information is requested.

STATEMENT OF EMERGENCY
806 KAR 9:001E

This emergency administrative regulation establishes the guidelines prescribed by the Commissioner of Insurance for courses of instruction and the qualifications of instructors for these courses, to be completed by each person applying for an agent license in the Commonwealth of Kentucky. HB 875, related to agent licensing reform becomes effective on July 14, 2000. The changes in this bill require the department to take immediate measures toward the implementation of its components. One (1) such component relates to the establishment of requirements for pre-licensing education as well as approving qualifications for instructors. Because several new licenses have been established by HB 875, it is imperative that this emergency administrative regulation be in place to enable individuals to begin the process to obtain these licenses. Several existing licenses have been altered by HB 876 and the solicitor's license has been eliminated. In order to avoid a disruption in the marketplace, as well as in the lives of insurance professionals it is important that this emergency administrative regulation be in place promptly to implement HB 876. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:001E. Course of studies; instructors.

RELATES TO: KRS Chapter 304, Subtitle 9
STATUTORY AUTHORITY: KRS 304.2-110
EFFECTIVE: JULY 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate [make reasonable rules and] administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. This administrative regulation establishes the guidelines prescribed by the Commissioner of Insurance for instructors [directors of instruction] and for courses of instruction to be completed by each person applying for either an agent or solicitor license in the Commonwealth of Kentucky.

Section 1. (1) Except for persons applying for a limited lines, a specialty credit insurance producer, or a rental vehicle agent managing employee license, all agent applicants shall complete a [The] minimum of forty (40) hours of classroom instruction requirement which [applies per license and] shall cover the subject matter included in the Insurance Department's current study outlines [manuals] or their equivalent.

(2) Agent applicants for a limited lines credit, or a rental vehicle agent managing employee license shall complete a minimum of sixteen (16) hours of classroom and/or correspondence instruction which shall cover the subject matter included in the Insurance Department's current study outlines, or their equivalent, for these licenses.

Section 2. Training programs and instructors filed hereunder with the commissioner shall be accompanied by a fee as set forth in KRS 304.4-010.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary

REGULATORY IMPACT ANALYSIS
Contact Person: Vicki Hom, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-6517, 502 564-6032, ext. 234.

(1) Type and number of entities affected: All persons or entities holding licenses from the Department of Insurance.

- 378 -
(2) Direct and indirect costs or savings on the:
   (a) Cost of living and employment in the geographical area in
       which the administrative regulation will be implemented, to the extent
       available from the public comments received: None.
   (b) Cost of doing business in the geographical area in which the
       administrative regulation will be implemented, to the extent available
       from the public comments received: No public comment has been
       received, no increase in cost is anticipated.
   (c) Compliance, reporting, and paperwork requirements, including
       factors increasing or decreasing costs (note any effects upon competi-
       tion) for the:
       1. First year following implementation: No effect.
       2. Second and subsequent years: No effect.
       (d) Costs on the promulgating administrative body:
       (a) Direct and indirect costs or savings:
       1. First year: No effect.
       2. Continuing costs or savings: None.
       3. Additional factors increasing or decreasing costs:
       (b) Reporting and paperwork requirements: No change.
   (4) Assessment of anticipated effect on state and local revenues:
       None.
   (5) Source of revenue to be used for implementation and en-
       forcement of administrative regulation: Budget of the Department of
       Insurance.
   (6) To the extent available from the public comments received,
       the economic impact, including effects of economic activities arising from
       administrative regulation, on:
       (a) Geographical area in which administrative regulation will
           be implemented: No impact.
       (b) Kentucky: No impact.
   (7) Assessment of alternative methods; reasons why alternatives
       were rejected: No alternative methods were discussed.
   (8) Assessment of expected benefits:
       (a) Identify effects on public health and environmental welfare of
           the geographical area in which implemented and on Kentucky: No
           impact.
       (b) State whether a detrimental effect on environment and public
           health would result if not implemented: No impact on environmental or
           public health is anticipated.
       (c) If detrimental effect would result, explain detrimental effect: No
           detrimental effect is anticipated.
   (9) Identify any statute, administrative regulation or government
       policy which may be in conflict, overlapping, or duplication: None.
   (10) Necessity of proposed regulation if in conflict: None necessary.
   (b) If in conflict, was effort made to harmonize the proposed ad-
       ministrative regulation with conflicting provisions: No conflicts are
       present.
   (11) Any additional information or comments: None

**STATEMENT OF EMERGENCY**

806 KAR 9:006E

This emergency administrative regulation repeals 806 KAR 9:005, 806
KAR 9:100, 806 KAR 9:150, 806 KAR 9:170, and 806 KAR 9:180. HB
875, relating to agent licensing reform, becomes effective on July 14,
2000. The changes in this bill require the department to take immedi-
ate measures toward the implementation of its components. HB 875
changed the licensing of business entities rendering 806 KAR 9:005, Offi-
cers of corporations licensed as agents, obscene. The bill also
explains in detail the procedure to be followed by a terminated agent,
making 806 KAR 9:100, Termination statement, unnecessary. Be-
cause HB 875 eliminated solicitors and changed categories of li-
censes and added types of licenses, the administrative regulations
concerning licensee examinations needed to be substantially changed.
In order to implement HB 875 and eliminate confusion, substi-
tutive material contained in 806 KAR 9:170, Minimum score of ex-
aminations for license, and 806 KAR 9:180, Period for which examina-
tion results are valid, which still complies with HB 875 have been
combined with 806 KAR 9:070, Examinations, making these adminis-
trative regulations unnecessary and redundant. HB 875 eliminated the
type of life agent which 806 KAR 9:150, Life agents’ training program,
regulated, making it necessary to repeal this administrative regulation.
In order to avoid disruption of the industry this administrative regula-
tion needs to be implemented as an emergency administrative regula-
tion. This emergency administrative regulation will be replaced by an
ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency)

RELATES TO: KRS 304.9-130, 304.9-160, 304.9-300, 304.9-320, 304.9-430, 304.32-180, 304.38-110, 304.43-080
STATUTORY AUTHORITY: KRS 304.2-110 304.32-250, 304.38-110, 304.43-080
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate rules and
administrative regulations necessary for or as an aid to the effect-
tuation of any provisions of the Kentucky Insurance Code. 806 KAR
9:005 was adopted by KRS 304.9-130 which has been amended with provi-
sions that address the same subject matter. For this reason KAR
9:005 is no longer necessary. 806 KAR 9:070 has been amended and
incorporates the material contained in 806 KAR 9:170 and 806 KAR
9:180 rendering them redundant; an amendment to KRS 304.9-280
codifies the requirements specified in 806 KAR 9:100 making that
administrative regulation unnecessary; a training program for tempo-
rary life agent licenses set forth in KRS 304.9-300(1)(b). KRS 304.9-
300(1)(b) was deleted making 806 KAR 9:180 unnecessary.

Section 1. (1) 806 KAR 9:005, Officers of corporations licensed as
agents, is hereby repealed.
(2) 806 KAR 9:100, Termination statement, is hereby repealed.
(3) 806 KAR 9:150, Life agents’ training program, is hereby re-
pealed.
(4) 806 KAR 9:170, Minimum score of examination for license, is
hereby repealed.
(5) 806 KAR 9:180, Period for which examination results are valid, is
hereby repealed.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCLOUD, Secretary

REGULATORY IMPACT ANALYSIS

Contact Person: Vicky Horn, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, 502 554-0032, ext. 234.
(1) Type and number of entities affected: All officers of corpora-
tions currently licensed as insurance agents, all life agents, all indi-
viduals or business entities seeking a license, all agents who have
been terminated, all applicants for licenses.
(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 competi-
       tion) for the:
       1. First year following implementation: No effect.
       2. Second and subsequent years: No effect
       (3) Effects on the promulgating administrative body:
       (a) Direct and indirect costs or savings:
1. First year: As several license categories have been added there will be an initial increase in cost and paperwork developing new examinations and filing systems.

2. Continuing costs or savings: Minimal increase in costs.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change.

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

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

(c) Any additional information or comments: None.

11. Tiering. Is tiering applied? Tiering does not apply because this administrative regulation repeals administrative regulations which applied to all individuals or business entities who are licensed under 806 KAR Chapter 11.

STATEMENT OF EMERGENCY
806 KAR 9:060E

This emergency administrative regulation amends 806 KAR 9:060. HB 875 becomes effective on July 14, 2000. This bill relates to agent licensing and the reform thereof. The changes in this bill require the department to take immediate measures toward the implementation of its component. HB 875 eliminates the solicitor's license requiring all administrative regulations dealing with solicitors to be changed to eliminate reference to this license. 806 KAR 9:060 permits and regulates the use of identification cards issued by the commissioner to licensees, including solicitors requiring its amendment in order to implement HB 875. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:060E. Identification cards.

RELATES TO: KRS 304.9-390
STATUTORY AUTHORITY: KRS 304.2-110
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation permits agents and others to have identification cards for use when they are outside of their principal place of business.

Section 1. (1) Every agent [and-solicitor] licensed pursuant to KRS Chapter 304.9 may obtain from the commissioner an identification card issued by the Department of Insurance indicating that he is a licensed insurance representative in Kentucky.

(2) Insurance agents [and-solicitors] who obtain identification cards pursuant to this administrative regulation shall pay to the commissioner in advance a fee of five (5) dollars per application for each card.

(3) The purpose of identity cards obtained pursuant to this administrative regulation is to identify insurance agents [and-solicitors] as qualified insurance representatives while selling, soliciting or negotiating insurance or annuity contracts [soliciting] outside of their principal places of business.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Vicky Horn, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, 502-564-6032, ext. 234.

(1) Type and number of entities affected: All persons or entities holding licenses from the Department of Insurance.

(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 comment has been received, no impact is anticipated.

(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 comment has been received, no increase in costs is anticipated.

(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 effect.

2. Second and subsequent years: No effect.

3. Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No effect.

2. Continuing costs or savings: None.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change.

(c) Any additional information or comments: 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: Budget of the Department of Insurance.

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: No public comment has been received.

7. Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were discussed.

8. Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact.

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

(c) If detrimental effect would result, explain detrimental effect: None.

9. Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.

10. Any additional information or comments: None.

11. Tiering. Is tiering applied? Tiering does not apply because this administrative regulation repeals administrative regulations which applied to all individuals or business entities who are licensed under 806 KAR Chapter 9.

12. 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 comment has been received, no increase in costs is anticipated.
(b) if in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions? No conflicts are present.

(10) Any additional information or comments: None.

(11) TIERING: Is tiering applied? Tiering does not apply because this administrative regulation applies to all agents licensed under 806 KAR Chapter 9.

STATEMENT OF EMERGENCY
806 KAR 9:070E

This emergency administrative regulation amends 806 KAR 9:070, Examination retake limits. HB 875, relating to agent licensing reform becomes effective on July 14, 2000. The many changes in this bill require the Department to take immediate measures toward the implementation. Because HB 875 eliminated solicitors and changed categories of licenses and added types of licenses, the administrative regulations concerning licensee examinations needed to be substantially changed. In order to implement HB 875 and eliminate confusion, substantive material which still complies with HB 875 was drawn from 806 KAR 9:170, Minimum score for examination for license, and 806 KAR 9:180. Period for which examination results are valid, and combinations of 806 KAR 9:070, Examination retake limits (renamed "Examinations"). Emergency administrative regulation 806 KAR 9:06E will repeal 9:170 and 9:180, which will no longer be needed. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCLCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:070E. Examinations. [Examination retake limits.]

RELATES TO: KRS 304.9-105, 304.9-160, 304.9-190, 304.9-230, 304.9-320, 304.9-430, 304.15-700, 304.32-180, 304.38-110

STATUTORY AUTHORITY: KRS 304.2-110, 304.15-700, 304.32-250, 304.38-110

EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate [make reasonable rules and] administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.15-700 provides that the commissioner may promulgate administrative regulations regarding the examinations of life brokers. KRS 304.32-250 provides that the commissioner may promulgate reasonable administrative regulations that he deems necessary for the proper administration of KRS Chapter 304. Subtitle 32 KRS 304.38-110 provides that the Commissioner of Insurance shall promulgate administrative regulations as are necessary to provide for the licensing of health maintenance organization agents. This administrative regulation reasonably restricts the number of times an applicant for a [life, health, disability, or accident] license may take the appropriate examination required by the Kentucky Insurance Code. The administrative regulations promulgated thereunder, sets a minimum score for successful completion of a written licensing examination, and sets a period for which examination scores are valid.

Section 1. As used in this administrative regulation:

(1) "Examination" means written examinations required to license applicants in accordance with KRS Chapter 304.

(2) "License" is a document issued by the commissioner indicating that an applicant has complied with applicable requirements of KRS Chapter 304.

Section 2. A completed written application for the examination and all other documents specified by the commissioner shall be filed with the commissioner by, or on behalf of the applicant, prior to the date scheduled for the examination, and shall be accompanied by all fees specified in KRS 304.4-010 or administrative regulations promulgated thereunder.

Section 3. Every applicant for a license who is required to take a written examination must answer correctly seventy (70) percent of the questions to successfully pass the examination.

Section 4. Applicants to take the examinations required by KRS Chapter 304 shall be permitted to take or retake an examination a combined total of three (3) times within 120 days of the submission of an application. All applicable fees, as set out in KRS 304.4-010 and administrative regulations promulgated thereunder, shall be submitted with the request to retake the examination. The request shall be made on a form prescribed by the commissioner.

Section 5. (1) The provisions of this administrative regulation shall apply to all individual applicants for resident limited lines licenses.

(2) Applicants for limited lines licenses shall successfully complete examinations as follows:

(a) For motor vehicle physical damage, common carrier, or mechanical breakdown license, a limited lines property examination;

(b) For credit license, a limited lines credit examination; and

(c) For crop hail license, a crop hail examination.

Section 6. If an applicant to take the examination required by KRS Chapter 304 does not take an examination or fails to pass an examination within 120 days of the filing of his application, said application shall become invalid, unless the commissioner grants an extension for good cause shown. The applicant may file a new application at any time following the expiration of the 120 day period, and an examination may be taken when scheduled by the department in the regular course of business.

Section 7. If an applicant for a license successfully completes an examination but does not receive a license, the examination results are valid for one (1) year from the date the examination is taken. After this period, the applicant must take the examination again. Applicants to take the examinations required by KRS 304.9-160, 304.9-320, and 806 KAR 9:090 shall be permitted to take or retake an examination a combined total of three (3) times within 120 days of the submission of an application.

Section 8. If an applicant to take the examinations required by KRS 304.9-160, 304.9-320, and 806 KAR 9:090 does not take an examination or fails to pass an examination within 120 days of the filing of his application, said application shall become invalid. The applicant may file a new application at any time following the expiration of the 120 day period, and an examination may be taken when scheduled by the department in the regular course of business.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCLCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Vicky Hon, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, 502-564-6032, ext. 234.

(1) Type and number of entities affected: All persons or entities holding licenses from the Department of Insurance.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comment has been received, minimal increase in cost is anticipated, due to new testing requirements.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

1. First year following implementation: No effect.
2. Second and subsequent years: No effect
3. Effects on the promulgating administrative body:
   (a) Direct and indirect costs or savings:
      1. First year: Slight increase in costs due to preparing new exami-
         nations.
      2. Continuing costs or savings: None.
   3. Additional factors increasing or decreasing costs:
   (d) Reporting and paperwork requirements: No change.
   (e) Assessment of anticipated effect on state and local revenues:
      None.
   (5) Source of revenue to be used for implementation and en-
       forcement of administrative regulation: Budget of the Department of
       Insurance.
   (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 comment has been received.
      (b) Kentucky: No public comment has been received.
   (7) Assessment of alternative methods; reasons why alternatives
       were rejected: No alternative methods were discussed.
   (8) Assessment of expected benefits:
      (a) Identify effects on public health and environmental welfare of
          the geographical area in which implemented and on Kentucky: No
          impact.
      (b) State whether a detrimental effect on environment and public
          health would result if not implemented: No impact on environmental
          or public health is anticipated.
      (c) If detrimental effect would result, explain detrimental effect:
          No detrimental effect is anticipated.
   (9) Identify any statute, administrative regulation or government
       policy which may be in conflict, overlapping, or duplication: None.
       (a) Necessity of proposed regulation in conflict: None necessary.
       (b) If in conflict, was effort made to harmonize the proposed ad-
           ministrative regulation with conflicting provisions: No conflicts are
           present.
   (10) Any additional information or comments: None.
   (11) Tiersing: Is tiersing applied? Tiersing is not used because this
       administrative regulation applies to all applicants for licenses under
       806 KAR Chapter 9.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:120E. Unlicensed adjusters.

RELATES TO: KRS 304.9-430
STATUTORY AUTHORITY: KRS 304.2-110

CONTACT PERSON: Vicky Horn, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, 502 564-6032, ext. 234.

(1) Type and number of entities affected: All persons or entities
    holding licenses from the Department of Insurance.
(2) Direct and indirect costs or savings on the:
    (a) Cost of living and employment in the geographical area in
        which the administrative regulation will be implemented, to the extent
        available from the public comments received: None.
    (b) Cost of doing business in the geographical area in which the
        administrative regulation will be implemented, to the extent available
        from the public comments received: No public comment has been
        received, no increase in cost: is anticipated.
    (b) Compliance, reporting, and paperwork requirements, including
        factors increasing or decreasing costs (note any effects upon competi-
        tion) for the:
        1. First year following implementation: No effect.
        2. Second and subsequent years: No effect
        3. Effects on the promulgating administrative body:
           (a) Direct and indirect costs or savings:
              1. First year: No effect.
              2. Continuing costs or savings: None.
              3. Additional factors increasing or decreasing costs:
                 (b) Reporting and paperwork requirements: No change.
            (e) Assessment of anticipated effect on state and local revenues:
                None.
            (5) Source of revenue to be used for implementation and en-
                forcement of administrative regulation: Budget of the Department of
                Insurance.
            (6) To the extent available from the public comments received, the
                economic impact, including effects of economic activities arising from
                administrative regulation, on:
                (a) Geographical area in which administrative regulation will be
                    implemented: No impact.
                (b) Kentucky: No impact.
            (7) Assessment of alternative methods; reasons why alternatives
                were rejected: No alternative methods were discussed.
            (8) Assessment of expected benefits:
                (a) Identify effects on public health and environmental welfare of
                    the geographical area in which implemented and on Kentucky: No
                    impact.
                (b) State whether a detrimental effect on environment and public
                    health would result if not implemented: No impact on environmental
                    or public health is anticipated.
                (c) If detrimental effect would result, explain detrimental effect:
                    No detrimental effect is anticipated.
                (9) Identify any statute, administrative regulation or government
                    policy which may be in conflict, overlapping, or duplication: None.
                    (a) Necessity of proposed regulation if in conflict: None necessary.
                    (b) If in conflict, was effort made to harmonize the proposed ad-
                        ministrative regulation with conflicting provisions: No conflicts are
                        present.

REGULATORY IMPACT ANALYSIS
STATEMENT OF EMERGENCY
806 KAR 9:200E

This emergency administrative regulation establishes the guidelines prescribed by the Commissioner of Insurance for the amount of business which may be placed by an insurance agent with a company that has not appointed him. HB 875, related to agent licensing reform becomes effective on July 14, 2000. The changes in this bill require the department to take immediate measures toward the implementation of its components. One (1) such component relates to amending the administrative regulation governing the amount of insurance an unappointed agent may place with a particular company. Because several new licenses have been established by HB 875, and several existing licenses have been significantly altered, it is imperative that this administrative regulation be amended to comply with HB 875. In order to avoid a disruption in the marketplace, as well as in the lives of insurance professionals, it is important that this emergency administrative regulation be in place promptly to implement HB 875. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLoud, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:200E. Volume of insurance agent exchange of business.

RELATES TO: KRS 304.9-030, 304.9-080, 304.9-410
STATUTORY AUTHORITY: KRS 304.2-110, 304.9-410
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate (make reasonable) administrative regulations necessary for, or as an aid to, the effectuation of any provision of the Kentucky Insurance Codes. KRS 304.9-410 requires the Commissioner of Insurance to adopt an administrative regulation establishing the amount of business that constitutes the occasional placement of business with insurers who are not appointed to represent, as permitted by KRS 304.9-080(5) and 304.9-410(1)(a) and (2). This administrative regulation defines what constitutes occasional placement of business with insurers an agent is not appointed to represent.

Section 1. Definition [Definitions]. As used in this administrative regulation:
(1) "General lines insurance agent" has the meaning set forth in KRS 304.9-030 and includes any persons holding licenses as agents as agent in any line of insurance described in KRS 304.9-030.
(2) "Life and health insurance agent" has the meaning set forth in KRS 304.9-030(2), (3), and (4) and any person holding a limited insurance agent license pursuant to KRS 304.9-239 and acting as agent in relation to any line of insurance described in KRS 304.9-030(2), (3), and (4).
(5) "Total premium" means all payments received from insureds or prospective insureds as consideration for insurance, including, but not limited to, all taxes and surcharges imposed by Kentucky law.

Section 2. Volume of Insurance Agent Exchange of Business. [(4)] A general lines [insurance] agent shall not place insurance with a premium of more than twenty (20) percent of the agent's total premium for the preceding calendar year with insurers for which the agent holds no appointment. Insurance placed by a general lines [insurance] agent through a residual market mechanism as defined in KRS 304.13-
011(8), with a surplus lines insurer pursuant to KRS Chapter 304.10, through a managing general agent as defined in KRS 304.9-085, or through a voluntary risk sharing or market assistance plan pursuant to KRS Chapter 304.46 shall not be considered in determining whether [each] agent has violated this subsection. An agent holding a line of authority in life or health
(2) A life and health insurance agent shall not place insurance with a premium of more than twenty (20) percent of the agent's total premium for the preceding calendar year with insurers for which the agent holds no appointment.

Section 3. Business Entity Licensees. [Corporate or Partnership Licensees and Sole Proprietors.] For agents designated to act under a business entity [corporate or partnership] insurance agent license or [corporate or partnership] insurance agent license [or agents who are employees of a sole proprietor who is licensed as an insurance agent], the percentage limitations of Section 2 of this administrative regulation shall be measured by the total premium received by the business entity [corporate or partnership agent or the sole proprietor]. Thus, persons designated to act under a business entity [corporate or partnership] insurance agent license [or employed by a sole-proprietor-licensed as an insurance agent] are subject to a single overall limit and may not use their separate licenses to increase the volume of permissible exchange of business.

Section 4. Responsibilities of Insurer; Validity or Issuance In Violation of this Administrative Regulation. (1) Insurers may assume that agents not appointed by the insurer and submitting applications to the insurer have not exceeded the limitations of Section 2 of this administrative regulation. However, insurers who have reason to know that an agent is in violation of Section 2 of this administrative regulation shall not issue an insurance policy based on an application submitted by this [such] agent.
(2) An insurance policy issued in violation of this administrative regulation is valid and enforceable.

Section 5. Effective Date. This administrative regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLoud, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 5 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Vicky Horn, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, 502 564-6032, ext. 234.
(1) Type and number of entities affected: All persons or entities holding licenses from the Department of Insurance.
(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 comment has been received, no impact is anticipated.
(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 comment has been received, no increase in cost is anticipated.
(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 effect.
2. Second and subsequent years: No effect.
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: None.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(4) Assessment of anticipated effect on state and local revenues:
None.
(5) Source of revenue to be used for implementation and en-
enforcement of administrative regulation: Budget of the Department of Insurance.
(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 comment has been received, no impact is anticipated.
(b) Kentucky: No public comment has been received, no impact is anticipated.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were discussed.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact.
(b) State whether a detrimental effect on environment and public health would result if not implemented: No impact on environmental or public health is anticipated.
(c) If detrimental effect would result, explain detrimental effect: No detrimental effect is anticipated.
(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.
(a) Necessity of proposed regulation if in conflict: None necessary.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflicts are present.
(10) Any additional information or comments: None.
(11) Tiering: Is tiering applied? Tiering does not apply because this administrative regulation governs all agents licensed in the Commonwealth of Kentucky.

STATEMENT OF EMERGENCY
806 KAR 9:210E
This emergency administrative regulation establishes the time limits prescribed by the Commissioner of Insurance for the replacement of evidence of licensee financial responsibility. HB 875, related to agent licensing reform becomes effective on July 14, 2000. The changes in this bill require the department to take immediate measures toward the implementation of its component. One (1) such component relates to amending the administrative regulation to delete references to a "solicitor's license which will no longer exist after July 14, 2000. It is imperative that this administrative regulation be amended to comply with HB 875 in order to avoid a disruption in the marketplace, as well as in the lives of insurance professionals. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

RELATES TO: KRS 304.9-105, 304.9-330, 304.9-430
STATUTORY AUTHORITY: KRS Chapter 13A, 304.2-110, 304.9-105
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate [make reasonable] administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.9-105(5) (659) (d) requires the Commissioner of Insurance to establish a time limit for licensees to replace evidence of financial responsibility which has been terminated. This administrative regulation establishes a time limit for licensees to replace evidence of financial responsibility which has been terminated.

Section 1. Definitions. As used in this administrative regulation:
(1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.
(2) "Evidence of financial responsibility" means the documents described in KRS 304.9-105[(5)] (65), 304.9-330, 304.10-140, and 806 KAR 9:030, Section 1.
(3) "Licensee" means agents, [seeleree] consultants, surplus lines brokers, and adjusters required by the Kentucky Insurance Code or administrative regulations of the commissioner to maintain evidence of financial responsibility on file with the Department of Insurance.

Section 2. Time Limit for Replacement of Evidence of Licensee Financial Responsibility. A licensee shall replace evidence of financial responsibility on or before thirty (30) days from the date notice is mailed by the commissioner to the licensee's address of record filed with the commissioner.

Section 3. Effective Date. This administrative regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS
Contact Person: Vicky Horn, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, 502 564-6032, ext. 234.
(1) Type and number of entities affected: All persons or entities holding licenses from the Department of Insurance.
(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 comment has been received, no impact is anticipated.
(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 comment has been received, no increase in cost is anticipated.
(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 effect.
2. Second and subsequent years: No effect.
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: None.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(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: Budget of the Department of Insurance.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, or:
(a) Geographical area in which administrative regulation will be implemented: No public comment has been received, no impact is anticipated.
(b) Kentucky: No public comment has been received, no impact is anticipated.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were discussed.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact.
(b) State whether a detrimental effect on environment and public health would result if not implemented: No impact on environmental or

public health is anticipated.
(c) If detrimental effect would result, explain detrimental effect; No detrimental effect is anticipated.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.
(a) Necessity of proposed regulation if in conflict: None necessary.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflicts are present.

(10) Any additional information or comments: None
(11) Tiering: Is tiering applied? Tiering is not used because this regulation applies to all licensees who come under 806 KAR Chapter 9.

STATEMENT OF EMERGENCY
806 KAR 9:220E

This emergency administrative regulation establishes the guidelines for continuing education for insurance licensees in the Commonwealth, including, guidelines for program and instructor approval, credits required per biennium for different licensees, credit measurement and carry forward, guidelines for proof of compliance and consequences of lack of compliance. HB 875, related to agent licensing reform becomes effective on July 14, 2000. The changes in this bill require the department to take immediate measures toward the implementation of its components. One (1) such component relates to licensee continuing education. Because HB 875 has altered existing licenses and created new ones, with greater continuing education requirements, it is imperative that this administrative regulation be amended to comply in order to avoid a disruption in the marketplace, as well as in the lives of insurance professionals. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD E. MCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:220E. [Agent Continuing education.

RELATES TO: KRS 304.9-295
STATUTORY AUTHORITY: KRS 304.2-110, 304.9295
EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate [make reasonable] administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.9-295 provides that the Commissioner of Insurance may, by administrative regulation, limit the number of excess continuing education credit hours accumulated during any continuing education biennium. This administrative regulation establishes procedures for approval of agent continuing education programs and obtaining credit for attending continuing education programs.

Section 1. Definitions. (1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance; and
(2) "Provider" means the sponsor of a continuing education program.

Section 2. Continuing Education Program Requirements. (1)[(e)] A continuing education program shall be [necessary for use as continuing education credit unless it is] filed with and approved by the commissioner; if the continuing education program is or will be advertised as having been approved by the commissioner, it shall be filed with the commissioner at least sixty (60) days in advance of advertising [unless the commissioner, in his sole discretion, waives the sixty (60) day period].
(b) Any material change in a continuing education program previously filed with and approved by the commissioner shall not be implemented until filed with and approved by the commissioner.
(2) [(e)] All applications for approval of a continuing education program shall be in the form prescribed by the commissioner and shall be accompanied by an initial fee of ten (10) dollars plus the credit hour due pursuant to 806 KAR 4:010. A continuing education program is not deemed approved until all fees are paid.

(3) The commissioner shall approve [(e)] in order to receive approval of the commissioner for continuing education credit pursuant to KRS 304.9-295; a continuing education program if it meets the following requirements: [shall meet the requirements of this administrative regulation):
(2) Continuing education programs which quality for approval for continuing education credit are those specified in KRS 304.9-295(4)(e):
(3) In order to obtain approval under subparagraphs 7, 8, and 9 of KRS 304.9-295(4)(e), a continuing education program shall meet the following requirements.
(a) The continuing education program shall contribute directly, at a professional level, to the competence of the agent including but not limited to [or solicitor, by dealing with] the following subjects:
1. Insurance, annuities and risk management;
2. Insurance laws and administrative regulations;
3. Mathematics, statistics, and probability;
4. Economics;
5. Business law;
6. Finance;
7. Taxes;
8. Business environment, management, or organization; or
9. Ethics;
10. Other topics approved by the commissioner.
(b) Areas other than those listed above if the agent or solicitor can demonstrate that they contribute to professional competence and otherwise meet the standards set forth in this administrative regulation whenever a particular subject qualifies under this paragraph rests within the sole discretion of the commissioner.
(c) However, [a continuing education program on the following subjects shall not qualify for continuing education credit:]
1. Any course used to prepare for taking an insurance agent or solicitor license examination;
2. Committee service of professional organizations;
3. Computer science courses;
4. Motivational or sales training courses;
5. Any program not in accordance with this administrative regulation:
(e) Program development and presentation:
1. The continuing education program shall have substantial intellectual or practical content to enhance and improve the knowledge and professional competence of participants;
2. The program shall be developed by persons who are qualified in the subject matter and instructional design;
3. The program content shall be current;
4. Each program shall have a written outline and study materials or texts;
5. Information showing that the instructor are qualified, through training or experience, to instruct the continuing education program completely; [Instructors shall meet the requirements of subsection (5) of this section];
6. The number of participants and physical facilities shall be consistent with the teaching method specified; and
7. All programs shall include some means of evaluating quality.
(d) Continuing education programs filed for approval under this subsection shall include information showing that the instructor are qualified, through training or experience, to instruct the continuing education program completely. The commissioner may disapprove or withdraw approval of a continuing education program if an instructor does not meet the qualifications of this paragraph or has committed any of the acts prohibited by KRS 304.9-440;
(4) Correspondence courses shall be subject to the following:
(a) A correspondence course shall require successful completion of a written examination;
(b) A specific correspondence course shall be used for continuing
education credit only once every continuing education biennium;
(d) Agents and solicitors shall be limited to a maximum of twelve (12) credit hours for correspondence courses per continuing education biennium; and
(e) A correspondence course shall not be approved for continuing education credit of more than twelve (12) hours;
(f) The commissioner may withdraw approval of a continuing education program for any of the following reasons:
(a) The continuing education program teaching methods or program content no longer meet the requirements of KRS 304.9-295 or this administrative regulation or have been materially changed without filing with or approval by the commissioner;
(b) The continuing education program provider has certified to the commissioner that an agent or solicitor has satisfactorily completed the program when, in fact, the agent or solicitor has not done so;
(c) The continuing education program provider fails to certify to the commissioner that an agent or solicitor has satisfactorily completed the program when, in fact, the agent or solicitor has not done so;
(d) There is other good and just cause to withdraw approval of a continuing education program;
(e) Providers shall renew approval of continuing education programs at the end of each continuing education biennium. At least sixty (60) days prior to the end of each continuing education biennium, the commissioner shall mail or deliver to each provider renewal notice:
(1) Providers shall file renewal information with and pay the renewal fee specified in 806 KAR 4:010 to the commissioner no later than the end of the continuing education biennium;
(2) Continuing education credit will not be provided for:
1. Any course used to prepare for taking an insurance agent license examination required pursuant to KRS Chapter 304;
2. Committee service of professional organizations;
3. Computer science courses unless approved by the commissioner;
4. Motivational or sales training courses; and
5. Any program not in accordance with this administrative regulation;
(f) Any material change in a continuing education program shall be filed with and approved by the commissioner with the applicable filing fees;
(g) Providers shall renew approval of continuing education programs at the end of each continuing education biennium. Providers shall file applicable information with and pay the applicable fee specified in 806 KAR 4:010 to the commissioner prior to April 15 immediately preceding the next continuing education biennium.

Section 3. Credit Measurement. (1) Each credit hour of a continuing education program shall include at least fifty (50) minutes of continuous instruction or participation;
(2) No course shall be used for continuing education by a licensee more than once;
(3) Agents shall be limited to a maximum of twelve (12) credit hours for correspondence courses per continuing education biennium; and
(4) A correspondence course shall not be approved for continuing education credit of more than twelve (12) hours unless the course is listed in KRS 304.9-295(d)(a).

Section 4. Reasons for Withdrawal. The commissioner may withdraw approval of a continuing education program, provider, or institution under any of the following reasons:
(1) The continuing education program teaching methods or program content no longer meet the requirements of KRS 304.9-295 or this administrative regulation;
(2) The continuing education program provider has certified to the commissioner that a licensee has satisfactorily completed the program when, in fact, the licensee has not done so;
(3) The continuing education program provider fails to certify to the commissioner that a licensee has satisfactorily completed the program when, in fact, the licensee has not done so;
(4) There is other good and just cause to withdraw approval of a continuing education program, provider or instructor.

Section 5. Measurement of Credit. Continuing education programs shall be credited for continuing education purposes in full hours as the commissioner deems appropriate. In order to have assigned to it one hour of continuing education credit, each hour of a continuing education program shall include at least fifty (50) minutes of continuous instruction or participation. For the purposes of this section, a one day continuing education program shall be granted eight (8) hours credit if the total elapsed time is approximately eight (8) hours and the program includes at least 400 minutes of classroom instruction or participation.

Section 4. Proof of Completion. (1) Within thirty (30) days of [open] completion of a continuing education program, the provider shall certify to the commissioner the names of all licensees [agents or solicitors] who satisfactorily completed the continuing education program. The certification required by this section [of completion required by this section] shall be in the form prescribed by the commissioner.
(2) [The certificate of completion shall be completed in triplicate for each agent or solicitor attending. The provider shall forward one copy of the certificate to the provider to the department within thirty (30) days after the continuing education course is completed. The department shall accept only original.] The provider or the continuing education program shall furnish to the licensee [agent or solicitor] attending the program a copy of the certificate and the licensee [agent or solicitor] shall retain a copy of the certification [certificate] for at least three (3) years. Providers [provider] of the continuing education program shall retain a copy of the certification [certificate] for at least three (3) years. Providers of the continuing education programs and licensees [agents and solicitors] shall make the certificate copies of certificates available to the commissioner or his designee copies of certificates upon the request of the commissioner.
(3) Pursuant to KRS 304.9-295(8), every licensee [agent] shall be responsible for insuring that his continuing education certificates of completion are timely filed with the department.
(4) At least six (6) hours of total credit earned per biennium must be directly related to any one (1) or more of the lines of authority for which the licensee is actively licensed. At least two (2) hours of total credit earned per biennium must be in ethics. Hours may be classroom, correspondence, or a combination of both.

Section 6. Cancellation and Reinstatement of Licenses. (1) If the department does not receive proof of the fulfillment of a resident licensee's continuing education requirements on or before July 30 in even-numbered years, and for a nonresident licensee before July 30 in odd-numbered years, the commissioner shall terminate the license.
(2) Within twenty-four (24) months after a license is terminated for failing to submit certification of continuing education, the license may be reinstated if the licensee satisfies the delinquent continuing education requirements, submits a new application for a license, and submits the license application and appointment fees.
(3) If the continuing education delinquency remains unsatisfied for twenty-four (24) months, the license shall be revoked. The delinquency shall be satisfied in KRS Chapter 304. [Lists of Approved Continuing Education Programs. The commissioner shall provide, upon written request accompanied by a fee of five (5) dollars pursuant to 806 KAR 4:010, a list of all continuing education programs which the commissioner has approved and the providers of those programs.]

Section 7. Cancellation and Reinstatement of Licenses. (1) If the department does not receive proof of the fulfillment of an agent's continuing education requirements on or before July 30 in even-numbered years, the commissioner shall cancel the agent's license. The commissioner shall notify a licensee and the licensees' sponsoring agent or insurer of cancellation of the license for failure to comply with continuing education requirements. The notice shall be in writing and mailed to
the resident address of the licensee on file with the commissioner and that notice is returned as undeliverable the notice shall be sent to the business address of the licensee on file with the commissioner. Notice to sponsoring agents and insurers shall be mailed to their mailing addresses on file with the commissioner.

(3) Reinstatement of a license or issuance of a new license shall be granted only after the licensee has satisfied the continuing education requirement for the current license term, the license term is determined to be filled the appropriate certificate of completion, filed the required application or appointment for a license, and has paid the required licensing fees.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Vicky Horn, Department of Insurance, PO Box 517, Frankfort, Kentucky 40622-0517, (502) 564-6032, ext. 254.
(1) Type and number of entities affected: All persons or entities holding licenses from the Department of Insurance.
(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 comment has been received, no impact is anticipated.
(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 comment has been received, no increase in cost is anticipated.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for:
   1. First year following implementation: No effect.
   2. Second and subsequent years: No effect
   (3) Effects on the promulgating administrative body:
   (a) Direct and indirect costs or savings:
      1. First year: No effect.
      2. Continuing costs or savings: None.
      3. Additional factors increasing or decreasing costs:
   (b) Reporting and paperwork requirements: No change.
   (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: Budget of the Department of Insurance.
   (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 comment has been received, no impact is anticipated.
      (b) Kentucky: No public comment has been received, no impact is anticipated.
   (7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were discussed.
   (8) Assessment of expected benefits:
      (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact.
      (b) State whether a detrimental effect on environment and public health would result if not implemented: No impact on environmental or public health is anticipated.
      (c) If detrimental effect would result, explain detrimental effect: No detrimental effect is anticipated.
      (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.
         (a) Necessity of proposed regulation if in conflict: None necessary.
         (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflicts are present.
(10) Any additional information or comments: None
(11) Tiering: Is tiering applied? Tiering does not apply because all licensees under 806 KAR Chapter 9 must comply with this administrative regulation.

STATEMENT OF EMERGENCY
806 KAR 9:250E

This emergency administrative regulation sets forth the licensing procedure and forms for the specialty insurance producer license. HB 595 becomes effective on July 14, 2000. This bill creates a new license for credit insurance sales in retail establishments. This new statute requires the department to take immediate measures toward the implementation of its component because this statute includes unique licensing requirements that are not currently in the insurance code. In order to implement HB 595, this administrative regulation also incorporates by reference a new form which is part of the application package. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency)

806 KAR 9:250E. Specialty credit insurance.

RELATES TO: 2000 Ky. Acts ch. 14
STATUTORY AUTHORITY: KRS 304.2-110
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the commissioner of insurance may promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation sets forth the information to be included in the application and the procedure for recordkeeping and renewal of the specialty credit insurance producer license.

Section 1. The license application shall be submitted as a package, and shall include:
(1) A completed and executed Form 8301-BE for the business entity applicant.
(2) A completed and executed Form 8301 for each managing employee applicant.
(3) A Form 8301-SC signed by the business entity applicant and all managing employee applicants.
(4) The fees specified in KRS 304.4-010 and the applicable administrative regulations.

Section 2. A licensed business entity shall submit an amended form 8301 SC-BE no later than thirty (30) days from the date of any change. A licensed business entity shall not transact insurance at any business location that does not have a licensed managing employee assigned to that location.

Section 3. Upon completion of the required employee training, the licensed business entity shall obtain a certification in writing from each unlicensed employee that he or she received the instruction with respect to the consumer disclosures. The certification shall include the date of the instruction. The licensed business entity shall maintain complete records of the certification required by this section at the business location of each unlicensed employee for three (3) years.

Section 4. 806 KAR 9:250 incorporates by reference the following material that specifies the application forms required by 2000 Ky. Acts ch. 144:
information not included in the standard license application.

(2) The total number of pages the Department of Insurance has incorporated by reference is one (1).

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary

REGULATORY IMPACT ANALYSIS

Contact Person: Pam Farmer (502) 564-6032

(1) Type and number of entities affected: Furniture stores, jewelry stores, mobile home dealerships, car and boat dealers, appliance stores, department stores, and any other retail sales center that offers financing of consumer purchases. 20,000 or more commercial businesses.

(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 known.
   (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: Net effect not known. Potential net savings for businesses with multiple locations and employees due to elimination of existing requirement for licensed employees at every business location.
   (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
      1. First year following implementation: Should decrease paperwork permanently, beginning first year.
      2. Second and subsequent years: See above.
   (3) Effects on the promulgating administrative body:
      (a) Direct and indirect costs or savings:
         1. First year: Revenue neutral at this time. Anticipate start-up costs to implement the new licensing and renewal procedures.
         2. Continuing costs or savings: Revenue neutral at this time.
         3. Additional factors increasing or decreasing costs: Variation in paperwork. New enforcement issues.
      (b) Reporting and paperwork requirements: Business entity licensee responsible for keeping records current with DOI, including current list of business locations.
      (4) Assessment of anticipated effect on state and local revenues:
         State is revenue neutral. No effect on local revenues.
      (5) Source of revenue to be used for implementation and enforcement of administrative regulation: License fee, renewal fee.
      (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: N/A
         (b) Kentucky: None expected.
         (7) Assessment of alternative methods; reasons why alternatives were rejected: Licensing requirements set forth in statute. Regulation simply clarifies procedure.
      (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) Identify 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: Existing limited lines credit insurance (KRS 304.9-230) covers much of the same activity and many of the same products.
         (a) Necessity of proposed regulation if in conflict: New statute creates parallel but different license to sell any of the same products. Licensing, renewal, appointments, fees, and education requirements are different from limited lines license, by statute.
         (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No. Enabling statutes have different requirements.
   (10) Any additional information or comments:

(11) TIERING: Tiering is not applicable here. There are 2 types of licenses regulated within 806 KAR 9:260E. One is the license for the business entity at whose business locations specialty credit insurance will be sold. The other is the license for the required managing employee who will supervise and certify training and continuing education for those individuals at point of sale. All members within each category are treated identically.

STATEMENT OF EMERGENCY

806 KAR 9:260E

This emergency administrative regulation sets forth the licensing procedure and forms for the rental vehicle agent license. HB 354 becomes effective on July 14, 2000. This bill creates a new license for insurance sales that are incidental to a rental vehicle transaction. This new statute requires the department to take immediate measures toward the implementation of its component because this statute includes unique licensing requirements that are not currently in the insurance code. In order to implement HB 354, this administrative regulation also incorporates by reference a new form which is part of the application package and a new form which is part of the renewal procedure. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CAbINET
Department of Insurance
Division of Agent Licensing
(Emergency)

806 KAR 9:260E. Rental vehicles.

RELATES TO: 2000 Ky. Acts ch. 380
STATUTORY AUTHORITY: KRS 304.2-110, 2000 Ky. Acts ch. 380

EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation sets forth the information to be included in the application for a rental vehicle agent license, and the requirements for prelicensing education, course examinations, continuing education, and recordkeeping for rental vehicle agents and employees.

Section 1. The license application shall be submitted as a package, and shall include:
   (1) A completed and executed Form 8301-BE for the business entity applicant.
   (2) A completed and executed Form 8301 for each managing employee applicant.
   (3) A Form 8301-RV completed and signed by the business entity applicant and all managing employee applicants.
   (4) The fees specified in KRS 304.4-010 and the applicable administrative regulations.

Section 2. A licensed business entity shall submit an amended Form 8301-RV no later than thirty (30) days from the date of any change. A licensed business entity shall not sell, solicit, or negotiate insurance at any business location that does not have a licensed managing employee assigned to that location.

Section 3. A licensed business entity shall maintain a current list of every unlicensed employee authorized to act under the license and the name of his or her assigned licensed managing employee on the premises at each business location.

Section 4. (1) The licensed business entity shall:
   (a) Adopt and utilize the department's preapproved prelicensing course of study for its managing employees; or
(b) Submit to the commissioner for approval a prelicensing course of study for its managing employees.

(2) The prelicensing course of study shall include at a minimum the materials designated in a course outline provided by the department and shall include at least sixteen (16) hours of classroom instruction.

Section 5. (1) The licensed business entity shall:

(a) Adopt and utilize the department's preapproved licensing examination for its managing employees; or

(b) Submit its proposed licensing examination to be given to its managing employees to the commissioner for approval.

(2) The examination for the managing employees shall include at least twenty-five (25) questions on the topics in the department's course outline. Each managing employee applicant shall attain a score of seventy (70) or better to pass the examination and be eligible for the license.

Section 6. The licensed business entity shall submit its proposed continuing education program for the licensed managing employees and its unlicensed employees or representatives to the commissioner for approval. The business entity shall provide, and the licensed managing employee shall successfully complete, at least eight (8) hours of continuing education during each licensing biennium to be eligible for renewal of the license. At least six (6) hours shall be related to property and casualty insurance and at least two (2) hours shall be related to ethics. The licensed business entity's unlicensed employees or representatives shall receive one (1) hour continuing education relating to consumer disclosures each year. Any course approved by the commissioner under 806 KAR 9:220 shall satisfy this section.

Section 7. The business entity licensee shall certify to the commissioner that each licensed managing employee and the unlicensed employees or representatives have successfully completed the continuing education required by this section for the continuing education biennium ending June 30, 2002, and biennially thereafter.

Section 8. Every licensed managing employee shall certify to the commissioner that he or she successfully completed the continuing education required by this section on a form prescribed by the commissioner for the continuing education biennium ending June 30, 2002, and biennially thereafter.

Section 9. This administrative regulation incorporates by reference the following material that specifies the application forms required by 2000 Ky. Acts ch. 194:


(2) Form RV-CE, "Certification of Managing Employee Continuing Education (7/2000)", Department of Insurance. 2000 Ky. Acts ch. 350 requires the licensed business entity to provide continuing education to each managing employee and authorize the commission to require any documents reasonably necessary to verify the information.

(3) The total number of pages the Department of Insurance has incorporated by reference is two (2).

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. McLOUD, Secretary

REGULATORY IMPACT ANALYSIS

Contact Person: Pam Farmer
(1) Type and number of entities affected: Rental vehicle business locations, such as Hertz, Avis, Ryder Trucks, U-Haul, and any other rental vehicle center that offers insurance as an add-on to the rental vehicle contract. 500 or more commercial businesses.

(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 have been received, no impact is anticipated.

(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 comment has been received, but an increase is expected in fee expense for rental vehicle businesses due to license and location fees for new licenses.

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

1. First year following implementation: A slight increase is expected in permanent record keeping, beginning in the first year as businesses apply for licenses and update applications.

2. Second and subsequent years: See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The license will generate new fee revenue from license and location fees. The inflow of new applications will generate additional costs to process and may require additional personnel. Anticipate start-up costs to implement the new application and renewal procedures.

2. Continuing costs or savings: Will incur continuing costs after start-up to process new applications and existing renewals.

3. Additional factors increasing or decreasing costs: More paperwork for DOI to process and track. New enforcement issues. These new tasks may require new personnel.

(b) Reporting and paperwork requirements: Business entity licensee responsible for keeping records current with DOI, including current list of business locations and designated managing employee. Licensee required to maintain records for DOI review.

(4) Assessment of anticipated effect on state and local revenues: Generates fee revenue for the state about equal to increased costs.

(5) No effect on local revenue is anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Licensing requirements are set forth in the statute. This regulation simply clarifies procedures.

(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. This new regulation is limited to specialized industry specific products.

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments:

(11) Tiering: Is tiering applied? Tiering is not applicable here. There are 2 types of licenses regulated within 806 KAR 9:230E. One is the license for the business entity at whose business locations rental vehicle business insurance is sold. The other is the license for the required managing employee who will supervise and certify training and continuing education for those individuals at point of sale. All members within each category are treated identically.

STATEMENT OF EMERGENCY
806 KAR 11:010E

This emergency administrative regulation establishes property and casualty insurance rate and rule filing requirements. HB 50 (2000)
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

Ky. Acts ch. 145 ) becomes effective July 14, 2000. This bill amends KRS 304.11-020 by creating two (2) new classes of insureds, a “government entity insured,” and an “exempt commercial policyholder.” This bill requires the department to create new procedures and forms for these new classes of insureds to apply for and renew their status. The department must create these procedures and forms in order to meet the effective date of HB 354. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 11:010E. Industrial insured, government entity insured, and exempt commercial policyholder.


STATUTORY AUTHORITY: KRS 304.2-110

EFFECTIVE: July 13, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance shall promulgate [make] reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation provides the means by which the Commissioner may determine whether a proposed insured meets the definition of an “industrial insured,” a “government entity insured,” and an “exempt commercial policyholder.”

Section 1. (1) [Prior to being recognized as] An “industrial insured” as defined in KRS 304.11-020(2)(a) means an (4), a proposed insured who filed an [shall make] affidavit to the commissioner prior to July 1, 1999, establishing that it satisfied the then-existing criteria for obtaining that status.

(2) All “industrial insureds” shall reapply for their status, prior to December 31, 2000, by filing with the commissioner an “Industrial Insured Affidavit” (Form II-1 P & C) for his approval, certifying that the requirements of KRS 304.11-020(2)(a) continue to be satisfied, of insurance, stating the following:

(a) The name and address of the full-time employees acting as insurance managers for the policyholder or the name and address of the regularly and continuously retained qualified insurance consultant.

(b) The estimated aggregate premiums for insurance on all risks, and an explanation of the computation of the estimate.

(c) The number of full-time employees.

(d) Other information as the Commissioner of Insurance may reasonably require.

Section 2. Prior to being recognized as a “government entity insured” as defined in KRS 304.11-020(2)(b), a proposed insured shall file with the commissioner a “Government Entity Insured Affidavit” (Form GEI-1 P & C) for his approval.

Section 3. Prior to being recognized as an “exempt commercial policyholder” as defined in KRS 304.11-020(2)(c), a proposed insured shall file with the commissioner an “Exempt Commercial Policyholder Affidavit” (Form ECP-1 P & C) for his approval.

Section 4. The commissioner of insurance may, at his discretion, cause an investigation into the facts set forth in the proposed insured’s affidavit.

Section 5. All filings of an initial certification or renewal shall be accompanied by the appropriate filing fee.

Section 6. All industrial insureds, government entity insureds and exempt commercial policyholders shall apply for renewal of their respective status with the commissioner every three (3) years.

Section 7. (1) All property and casualty insurers, prior to issuing a policy of insurance to an industrial insured, government entity insured, or exempt commercial policyholder, shall obtain a copy of the approved Forms II-1 P & C, GEI-1 P & C, and ECP-1 P & C. The insurer shall make these approved forms available for examination by the commissioner.

(2) It shall be permissible for any person to file the appropriate affidavit on behalf of an “industrial insured,” “government entity insured,” or “exempt commercial policyholder.”

Section 8. For the purposes of KRS 304.11-020, a risk manager shall be considered qualified if the risk manager has the following:

(1) At least five (5) years of experience in one (1) or more of the following areas of commercial property and casualty insurance:

(a) Risk and insurance coverage analysis;

(b) Claims administration;

(c) Risk financing;

(d) Loss prevention; or

(2) A professional designation in at least one (1) of the following:

(a) A bachelor’s or higher degree in risk management issued by an accredited college or university;

(b) A chartered property and casualty underwriter (CPCU);

(c) An associate in risk management (ARM);

(d) A certified risk manager (CRM); or

(e) A fellow in risk management (FRM).

Section 9. [3.] After designating an insured an "industrial insured," "government entity insured," or "exempt commercial policyholder" the commissioner of insurance may, from time to time, cause an investigation or unannounced audit to ascertain that the requirements for such designation [an "industrial insured"] continue to be satisfied [met].

Section 10. The forms specified in this administrative regulation shall be copies of forms prepared by the Department of Insurance and incorporated by reference to this administrative regulation. The commissioner may amend or change the forms to meet the requirements of the Department of Insurance and other regulatory authorities.

Section 11. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) Form II-1 P & C, "Industrial Insured Affidavit", Department of Insurance.

(b) Form GEI-1 P & C, "Government Entity Insured Affidavit", Department of Insurance.

(c) Form ECP-1 P & C, "Exempt Commercial Policyholder Affidavit", Department of Insurance.

(2) This material may be inspected, copied or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky, 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or on the department’s internet website www.doi.state.ky.us.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 13, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

CONTACT PERSON: Lawrence W. Cook, Counsel, Kentucky Department of Insurance 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602, Phone: (502) 566-6092 ext. 219, Fax: (502) 566-1456.

(1) Type and number of entities affected: This administrative regulation will affect all property and casualty insurance companies licensed to engage in the business of insurance in Kentucky. Currently, there are approximately 800 insurance companies eligible to transact property and casualty business in this state. There are 100 entities that the commissioner recognizes as industrial insureds.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the
administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
1. First year following implementation: KRS 304.11-020, and 2000 Ky. Acts ch. 145 require industrial insurers, government entity insureds and exempt commercial policyholders to provide certain information to the commissioner. This administrative regulation creates procedures and forms for providing that information. Additionally, property and casualty insurance companies providing insurance to these entities must maintain certain records. However, property and casualty insurance companies also are exempted from having to file their rates and forms regarding exempt commercial policyholders for approval with the department. Therefore, these insurance companies will experience some savings as a result of this administrative regulation. The department anticipates that the savings these insurance companies experience will outweigh any costs they incur in maintaining copies of the above-referenced records.
2. Second and subsequent years: Property and casualty insurance companies selling policies to industrial insurers, government entity insureds and exempt commercial policyholders will experience some savings as a result of this administrative regulation. The department anticipates that the savings these insurance companies experience will outweigh any costs they incur in maintaining copies of the above-referenced records.
3. Additional costs or savings: (a) Direct and indirect costs or savings:
1. First year: The department will incur some additional costs in enforcing this regulation.
2. Continuing costs or savings: The department will incur some additional costs in enforcing this regulation.
3. Additional factors increasing or decreasing costs: Certifying the status of industrial insurers, government entity insureds, and exempt commercial policyholders.
(b) Reporting and paperwork requirements: The department has created several new forms, incorporated by reference in this administrative regulation, for the purpose of compiling the information with which industrial insurers, government entity insureds and exempt commercial policyholders must provide the commissioner.
4. Assessment of anticipated effect on state and local revenues: None
5. Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.
6. To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.
(b) Kentucky: The department has received no public comments regarding this issue.
7. Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.2-110 allows the commissioner to develop reasonable administrative regulations for or as an aid to the effectuation, operation, or enforcement of the Kentucky Insurance Code. 2000 Ky. Acts ch. 145 requires the commissioner to promulgate regulations establishing procedures and creating forms to be used for industrial insureds, government entity insureds and exempt commercial policyholders to apply for and renew their status. For this reason, no other alternatives were considered.
8. Assessment of expected benefits:
(a) Identify effects on public health, and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.
(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.
(c) If detrimental effect would result, explain detrimental effect:
9. Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: (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:
(1) TIERING: Is tiering applied? TIERING is not applied since this administrative regulation applies to all property and casualty insurance carriers authorized to engage in the insurance business in Kentucky.

STATEMENT OF EMERGENCY
806 KAR 13:150E

This emergency administrative regulation establishes property and casualty insurance rate and rule filing requirements. HB 354 (2000 Ky. Acts ch. 380) becomes effective July 14, 2000. This bill modifies KRS 304.13, and requires the department to revise its rate and rule filing requirements. The department must modify these requirements in order to meet the effective date of HB 354. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCLoud, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency)

806 KAR 13:150E. Property and casualty rate and rule filings.

STATUTORY AUTHORITY: KRS 304.2-110, 304.4-010, 304.12-010, 304.12-020, 304.12-030
EFFECTIVE: July 13, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate reasonable administrative rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation provides property and casualty rate and rule filing procedures.

Section 1. Every insurer, other than life or health insurers, required by law or licensed advisory organization, or statistical agent permitted by law to file rates, rating plans, rating rules, underwriting rules or guidelines, statistical plans, advertising and sales materials, or other documents shall file with these documents a fully completed and signed Form F-1A P&O, "Face Sheet and Verification Form for Individual Insurers", and if applicable Form F-1S P&O, "Group Member Companies Included in this Filing".

Section 2. All filings shall include two (2) full document sets with three (3) cover letters and a self-addressed stamped envelope.

Section 3. A filing may include any number of documents, filed together on a particular date, pertaining to a single line of insurance. Rates and rules shall be filed separately from forms.

Section 4. (1) All rate filings shall also be accompanied by Form S-1, "Filing Synopsis for Rates". (2) All rate filings shall include a separate Form S-1 for each company included in the filing.

Section 5. (1) All rule filings shall be accompanied by Form S-3, "Filing Synopsis for Rules". (2) All rule filings shall include a separate Form S-3 for each company included in the filing.

Section 6. (1) All rate filings referencing loss costs formulated by any advisory organization shall be accompanied by Form LC-1, "Calculation of Loss Cost Multiplier". All rate filings referencing loss costs
formulated by an advisory organization in which an expense constant is used must be accompanied by Form LC-2, "Expense Constant Supplement".

(2) All rate filings to which this section applies shall include separate Forms LC-1 and LC-2 for each company included in the filing.

Section 7. (1) Any rate filing, or any filing containing a rule, or underwriting rule or guideline that impacts a rate or rates submitted by an insurer, or insurance group, regarding personal automobile insurance shall be accompanied by three (3) copies of a completed Form SG-1, "Shopper's Guide Rate Comparison for Auto Insurance".

(2) Any rate filing, or any filing containing a rule, or underwriting rule or guideline that impacts a rate or rates submitted by an insurer, or insurance group regarding homeowners' insurance shall be accompanied by three (3) copies of a completed Form SG-2, "Shopper's Guide Rate Comparison for Homeowners' Insurance".

(3) All filings to which this section applies shall include a separate Form SG-1 or SG-2 for each company included in the filing.

Section 8. The forms specified in Sections 1 through 9 of this administrative regulation shall be copies of the forms prepared by the Department of Insurance and incorporated by reference to this administrative regulation. The commissioner may amend or change the forms to meet the requirements of the Department of Insurance and other regulatory authorities.

Section 9. A property and casualty rate or rule filing may include rates for a particular insurance company, or group of insurance companies if the material is identical to all companies. If the filing is made for a group of insurance companies, Form F-1G P&C shall be filed to identify all member companies of the group that are to be included in the filing.

Section 10. Filing fees shall be paid on a per company basis. Since by the provisions of KRS 304.4-010 all fees and charges payable under the insurance code are required to be collected in advance, the period of time in which the commissioner may affirmatively approve or disapprove the filing shall not begin to run until both the complete filing and appropriate fee are received by the department.

Section 11. (1) Insurers that are members or subscribers of an advisory organization or statistical agent may choose to adopt all or some of the rates, rating plans, rating rules, underwriting rules or guidelines, or statistical plans of that advisory organization.

(2) When an insurer chooses to adopt only a specific filing of an advisory organization or statistical agent, it shall do so in accordance with the procedures set forth in this administrative regulation, and shall clearly identify which filing of the advisory organization or statistical agent it is adopting.

(3(a) When an insurer chooses to adopt all of the current and future rates, rating plans, rating rules, underwriting rules or guidelines, or statistical plans of an advisory organization or statistical agent, it may:

1. Provide written authorization to the advisory organization or statistical agent to notify the commissioner that the insurance company will adopt all of the rates, rating plans, rating rules, underwriting rules or guidelines, or statistical plans that the advisory organization or statistical agent files on its behalf; or

2. File written notice with the commissioner that is adopting by reference all of the current and future rates, rating plans, rating rules, underwriting rules or guidelines, or statistical plans that the advisory organization or statistical agent files.

(b) The advisory organization or statistical agent shall file the written notice of authorization referred to in paragraph (a) of this subsection with the commissioner and shall pay the appropriate fee. The fee shall be paid for each company sending such written authorization and on the basis of each line of insurance.

(c) When an insurer that previously chose to adopt all of the current and future rates, rating plans, rating rules, underwriting rules or guidelines, or statistical plans of an advisory organization or statistical agent later chooses to not adopt certain rates, rating plans, rating rules, underwriting rules or guidelines, or statistical plans as filed by the advisory organization or statistical agent, or changes their loss cost multiplier, the insurer shall file a notice of the nonadoption or change of their loss cost multiplier with the commissioner and shall pay the appropriate filing fee.

Section 12. Property and casualty insurance companies, advisory organizations and statistical agents may file their rates in an electronic format established by the National Association of Insurance Commissioners, in the manner prescribed by such format. Any such electronic filing shall be in lieu of any physical filing.

Section 13. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) Form F-1A P&C, "Face Sheet and Verification Form for Individual Insurers", Department of Insurance.

(b) Form F-1G P&C, "Group Member Companies Included in this Filing", Department of Insurance.

(c) Form S-1, "Filing Synopsis for Rates", Department of Insurance.

(d) Form S-3, "Filing Synopsis for Rules", Department of Insurance.

(e) Form LC-1, "Calculation of Loss Cost Multiplier", Department of Insurance.

(f) Form LC-2, "Expense Constant Supplement", Department of Insurance.

(g) Form SG-1 "Shopper's Guide Rate Comparison for Personal Auto Insurance" (two (2) pages), Department of Insurance.

(h) Form SG-2, "Shopper's Guide Rate Comparison for Homeowners' Insurance" (two (2) pages), Department of Insurance.

(2) This material may be inspected, copied or obtained from the Department of Insurance, 25 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's internet web site at www.doj.state.ky.us.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 13, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

CONTACT PERSON: Lawrence W. Cook, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Phone: (502) 564-8032 ext. 219, Fax: (502) 564-1458

(1) Type and number of entities affected: This administrative regulation will affect all property and casualty insurance companies licensed to engage in the business of insurance in Kentucky. Currently, there are 800 insurance companies eligible to transact property and casualty business in this state.

(2) Direct and indirect costs or savings on the: (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: 1. First year following implementation: KRS 304.13-051 and existing 806 KAR 14:005 require property and casualty insurance companies to file their rates with the commissioner, and specifies when filings become effective. This administrative regulation moves the filing requirements for property and casualty insurance rates from the existing administrative regulation for form filings (806 KAR 14:005) to a separate, new regulation in 806 KAR Chapter 13, the administrative regulation subtitle pertaining to insurance rates. The new administrative regulation also adds a new option for insurance carriers in the same insurer group (as identified by the National Association of Insurance Commissioners) to file their rates on a group basis as opposed to the individual carriers composing that group separately filing their
rates. Because most of the filing procedures already exist, and because most of the forms already exist, the department does not anticipate that this administrative regulation will have an effect upon the costs of complying with the statutory filing requirements. Compliance costs for those insurance carriers that choose to file their rates and rules on a group basis could be substantially reduced.

2. Several and subsequent years. The department anticipates that this administrative regulation could substantially reduce costs for some insurers in a group who choose to utilize the group filing option as opposed to the individual insurer filing option.

3. Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The purpose of this administrative regulation is to move existing filing requirements for property and casualty insurance rates from the existing administrative regulation for form filings (806 KAR 14:005) to a separate, new regulation in the administrative regulation subtitle pertaining to insurance rates. The new administrative regulation also adds a new option for insurance carriers in the same group (as identified by the National Association of Insurance Commissioners) to file their rates by the group as opposed to individual carriers composing that group separately filing their rates. The department does not foresee any direct or indirect costs or savings on the administrative body as a result of this administrative regulation.

2. Continuing costs or savings: The department anticipates that as more insurance companies become aware of the group filing option, many will opt to make their filings by group. As more carriers choose the group option, this could decrease the department's storage costs incurred in reviewing and approving insurance company rates.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

4. Assessment of anticipated effect on state and local revenues: None

5. Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.

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

(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

7. Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.13-061 allows the commissioner to develop reasonable administrative regulations for insurers to record and report their rates. For this reason, no other alternatives were considered.

8. Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect:

1. Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The department is proposing to simultaneously amend 806 KAR 14:005 to move the requirements regarding the filing of insurance rates to this new administrative regulation.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administration and subsequent years. The department anticipates that this administrative regulation could substantially reduce costs for some insurers in a group who choose to utilize the group filing option as opposed to the individual insurer filing option.

10. Any additional information or comments:

11. TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all property and casualty insurance carriers authorized to engage in the insurance business in Kentucky.

- 393 -
filed together or separately.)

Section 5. (4) Since by the provisions of KRS 304.4-010 all fees and charges payable under the insurance code are required to be collected in advance, the period of time in which the commissioner may affirmatively approve or disapprove the filing shall not begin to run until both the filing and appropriate fee are received by the department.

Section 6. (6) A policy or contract form shall not be used in Kentucky until it has been approved, and, if rates for the form are required by law to be approved, the appropriate rate schedule thereto has been approved.

Section 7. (6) If a filing includes a form which amends, replaces, or supplements a form which has been previously filed and not disapproved, it shall be accompanied by a letter of explanation from the filer setting forth all changes contained in the newly filed form, the effect, if any, the changes have upon the hazards purported to be assumed by the policy, and the rates applicable thereto.

Section 8. (7) (1) Facsimile signatures of company officers, attorneys-in-fact, employees and representatives shall not be required and shall not be submitted with any filing.

(2) A change of signature of the executing officer on a policy form shall not, because of this change alone, require a new filing.

Section 9. Life and health insurance companies may file their rates and forms in an electronic format established by the National Association of Insurance Commissioners, in the manner prescribed by such format. Any such electronic filing shall be in lieu of any physical filing.

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

(a) Form HIPMC-F1, "Face Sheet and Verification Form", Department of Insurance (7/2000 edition);

(b) Form LH1-2, "Policy form certification form", Department of Insurance (7/2000 edition);

(c) Form LH1-4, "Actuarial certification for individual health form filings", Department of Insurance (7/2000 edition);

(d) Form F-1, "Life Insurance Face Sheet and Verification Form" (two (2) pages), Department of Insurance (7/2000);

(e) Form LH1-3, "Actuarial certification for life and annuity forms", Department of Insurance (7/2000);

(2) This material may be inspected, copied or (Section 6, Forms numbered "T-1P95", "S-1", "S-2", "S-3", "LC-1", "F-1", "F-2", "H-2", "L-3", and "UH-4", revised in January 1992, are prescribed by the Department and herein incorporated by reference. Copies may be obtained at [from] the Department of Insurance, 215 West Main Street [P.O. Box 517], Frankfort, Kentucky 40601 [40602], Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's internet web site at www.doi.state.ky.us.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 13, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Lawrence W. Cook, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Phone: (502) 564-0332, ext. 219, Fax: (502) 564-1456.

(1) Type and number of entities affected: This administrative regulation will affect all life and health insurance companies licensed to engage in the business of insurance in Kentucky. Of those insurance companies authorized to transact the business of insurance in this Commonwealth, approximately 994 are eligible to transact health insurance, and approximately 581 are eligible to transact life insurance.

(2) Direct and indirect costs or savings on:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

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

   1. First year following implementation: KRS 304.14-120 requires life and health insurers to file their forms with the commissioner. KRS 304.17A-095 requires health insurance companies to file their rates with the commissioner. This administrative regulation retains the rate and form filing requirements for life and health insurance companies, and moves the rate and form filing requirements for property and casualty insurers into separate regulations. Because most of these filing procedures and forms already exist, the department anticipates that this administrative regulation will not have an effect upon the costs of complying with the statutory filing requirements.

   2. Second and subsequent years: The department anticipates that this administrative regulation will not have an effect upon the costs of complying with the statutory filing requirements.

   (3) Effects on the promulgating administrative body:

      (a) Direct and indirect costs or savings:

      1. First year: The purpose of this administrative regulation is to retain existing rate and form filing requirements for life and health insurers, and move existing rate, rule and form filing requirements for property and casualty insurers to separate, new regulations. The department does not foresee any direct or indirect costs or savings on the administrative body as a result of this administrative regulation.

      2. Continuing costs or savings: The department does not foresee any direct or indirect costs or savings on the administrative body as a result of this administrative regulation.

      3. Additional factors increasing or decreasing costs: None

      (b) Reporting and paperwork requirements: None

      (4) Assessment of anticipated effect on state and local revenues: None.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.

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

(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.13-061 allows the commissioner to develop reasonable administrative regulations for insurers to record and report their rates. For this reason, no other alternatives were considered.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.

(b) State whether a detrimental effect on environmental or public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplicating: The department is proposing to simultaneously promulgate 2 new regulations, 806 KAR 14:006, and 806 KAR 13:150. All references to the filing and approval of property and casualty insurance forms in the existing 806 KAR 14:005 will be moved into 806 KAR 14:006. All references to the filing and approval of property and casualty insurance rates in the existing 806 KAR 14:005 will be moved into 806 KAR 13:150.

(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all life and health insurance companies authorized to engage in the insurance business in Kentucky.

STATEMENT OF EMERGENCY
806 KAR 14:005E

This emergency administrative regulation establishes property and casualty insurance rate and rule filing requirements. HB 354 (2000 Ky. Acts ch. 380) becomes effective July 14, 2000. This bill modifies KRS 304.14-120, which requires the department to revise its property and casualty insurance form filing requirements. The department must modify these requirements in order to meet the effective date of HB 354. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency)

806 KAR 14:005E. Property and Casualty Insurance Form Filings.

RELATES TO: KRS 304.4-010, 304.14-120, 304.14-190, 2000 Ky. Acts ch. 380
STATUTORY AUTHORITY: KRS 304.2-110, 304.4-010, 304.12-010, 304.12-020, 304.12-150
EFFECTIVE: July 13, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate reasonable administrative rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation provides property and casualty form filing procedures.

Section 1. Every insurer, other than life or health insurers, required by law or licensed advisory organization or form provider permitted by law to file policy forms or endorsements, advertising and sales materials, or other documents other than those pertaining to rates shall file with these documents a fully completed and signed Form F-1A P&C, "Face Sheet and Verification Form for Individual Insurers", and if applicable, Form F-1G P&C, "Group Member Companies Included in this Filing".

Section 2. All filings shall include two (2) full sets of documents with three (3) cover letters and a self-addressed stamped envelope.

Section 3. A filing may include any number of documents, filed together on a particular date, pertaining to a single line of insurance. Forms shall be filed separately from rates and rules.

Section 4. (1) All form filings shall also be accompanied by Form S-2, "Filing Synopsis for Forms", and Form F-2, "Forms Index".

(2) All form filings shall include a separate Form S-2 for each company included in the filing.

Section 5. No policy or form may be used in Kentucky until it has been approved. If the rates pertaining to a form are required by law to be filed or approved, the form may not be used until the appropriate rates have been filed or approved as required.

Section 6. The forms specified in Sections 1 and 2 of this administrative regulation shall be copies of the forms prepared by the Department of Insurance and incorporated by reference to this administrative regulation. The commissioner may amend or change the forms to meet the requirements of the Department of Insurance and other regulatory authorities.

Section 7. A property and casualty form filing may include forms for a particular insurance company or group of insurance companies. If the filing is made for a group of insurance companies, Form F-1G P&C is to be filed to identify all member companies of the group that are to be included in the filing.

Section 8. Filing fees shall be paid on a per company basis. Since by the provisions of KRS 304.4-010 all fees and charges payable under the insurance code are required to be collected in advance, the period of time in which the commissioner may affirmatively approve or disapprove the filing shall not begin to run until both the complete filing and appropriate fee are received by the department.

Section 9. (1) Insurers that are members or subscribers of an advisory organization or form provider permitted by law to file policy forms or endorsements, advertising and sales materials, or other documents other than those pertaining to rates may choose to adopt all or some of the forms of that advisory organization or form provider.

(2) When an insurer chooses to adopt only a specific filing of an advisory organization or form provider, it shall do so in accordance with the procedures set forth in this administrative regulation, and shall clearly identify which filing of the advisory organization or form provider it is adopting.

(3)(a) When an insurer chooses to adopt all of the policy forms or endorsements, advertising and sales materials, or other documents other than those pertaining to rates of an advisory organization or form provider, it may:

1. Provide written authorization to the advisory organization or form provider to notify the commissioner that the insurance company will adopt all of the current and future policy forms or endorsements, advertising and sales materials, or other documents other than those pertaining to rates that the advisory organization or form provider files on its behalf; or

2. File written notice with the commissioner that it is adopting by reference all the current and future policy forms or endorsements, advertising and sales materials, or other documents other than those pertaining to rates that the advisory organization or form provider files.

(b) The advisory organization or form provider shall file the written notice of authorization referred to in paragraph (a)(1) of this subsection with the commissioner and shall pay the appropriate fee. The fee shall be paid for each company sending such written authorization and on the basis of each line of insurance.

(c) When an insurer that previously chose to adopt all of the policy forms or endorsements, advertising and sales materials, or other documents other than those pertaining to rates of an advisory organization or form provider, later chooses to not adopt certain policy forms or endorsements, advertising and sales materials, or other documents other than those pertaining to rates as filed by the advisory organization or form provider, the insurer shall file a notice of the nonadoption with the commissioner and shall pay the appropriate filing fee.

Section 10. If a filing includes a form which amends, replaces, or supplements a form which has been previously filed and not disapproved, it shall be accompanied by a letter of explanation from thefiler setting forth all changes contained in the newly filed form, the effect, if any, the changes have upon the hazards purporting to be assured by the policy, and an explanation as to the effect on the rates applicable thereto.

Section 11. (1) Facsimile signatures of company officers, attorneys-in-fact, employees and representatives shall not be required and shall not be submitted with any filing.

(2) A change of signature of the executing officer on a policy form shall not, because of this change alone, require a new filing.

Section 12. Property and casualty insurance companies, advisory organizations and form providers may file their forms in an electronic format established by the National Association of Insurance Commissioners, in the manner prescribed by such format. Any such electronic filing shall be in lieu of any physical filing.

Section 13. Material Incorporated by Reference. (1) The following
material is incorporated by reference:
(a) Forms F-1A P&C, "Face Sheet and Verification Form for Individual Insurers", Department of Insurance.
(b) Form F-1G P&C, "Group Member Companies Included in This Filing", Department of Insurance.
(c) Form F-2, "Forms Index", Department of Insurance.
(d) Form F-2, "Filing Synopsis Form", Department of Insurance.
2. This material may be inspected, copied, or obtained from the Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's internet web site at www.doi.state.ky.us.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 13, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

CONTACT PERSON: Lawrence W. Cook, Counsel, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602, Phone: (502) 564-6032 ext. 219, Fax: (502) 564-1456.

1. Type and number of entities affected: This administrative regulation will affect all property and casualty insurance companies licensed to engage in the business of insurance in Kentucky. Currently, there are approximately 800 insurance companies eligible to transact property and casualty business in this state.
2. Cost of indirect costs or savings on the:
   (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
3. Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
4. Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition for the):
   1. First year following implementation: KRS 304.14-120, and 2000 Ky. Acts ch. 380 require property and casualty insurance companies to file their forms with the commissioner. This administrative regulation moves the filing requirements for property and casualty insurance rates from the existing administrative regulation for form filings regarding all lines of insurance (806 KAR 14:005) to a separate, new regulation in the same subtitle. The new administrative regulation also adds a new option for insurance carriers in the same insurer group (as identified by the National Association of Insurance Commissioners) to file their forms by the group as opposed to the individual carriers composing that group separately filing their rates. Because most of the filing procedures already exist, and because most of the forms already exist, the department does not anticipate that this administrative regulation will have an effect upon the costs of complying with the statutory filing requirements. Compliance costs for those insurance carriers that choose to file their forms on a group basis would be substantially reduced.
   2. Second and subsequent years: The department anticipates that this administrative regulation could substantially reduce costs for some insurers in a group who choose to utilize the group filing option as opposed to the individual insurer filing option.
5. Effects on the promulgating administrative body:
   (a) Direct and indirect costs or savings:
   1. First year: The purpose of this administrative regulation is to move existing filing requirements for property and casualty insurance rates from the existing administrative regulation governing form filings for all lines of insurance (806 KAR 14:005) to a separate, new regulation in the same subtitle. The new administrative regulation also adds a new option for insurance carriers in the same group (as identified by the National Association of Insurance Commissioners) to file their forms on a group basis as opposed to individual carriers composing that group separately filing their forms. The department does not foresee any direct or indirect costs or savings on the administrative body as a result of this administrative regulation.
5. Continuing costs or savings: The department anticipates that as more insurance companies become aware of the group filing option, many will opt to make their filings by group. As more carriers choose the group option, this could decrease the department's storage costs incurred in reviewing and approving insurance company forms.
6. Additional factors increasing or decreasing costs: None
7. Assessment of anticipated effect on state and local revenues:
8. Assessment of expected benefits:
   (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.
   (b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.
   (c) If detrimental effect would result, explain detrimental effect:
9. Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The department is proposing to simultaneously amend 806 KAR 14:005 to delete those portions of that administrative regulation pertaining to the filing of property and casualty insurance forms. Additionally, the department is deleting all provisions pertaining to the filing of property and casualty insurance rates, and will move those filings into a new administrative regulation, 806 KAR 13:150.
   (a) Necessity of proposed regulation if in conflict:
   (b) If in conflict, was effort made to harmonize the proposed administrative regulations with conflicting provisions:
10. Any additional information or comments:

STATEMENT OF EMERGENCY

806 KAR 17:180E

This emergency administrative regulation defines the standard health benefit plan and the form for the benefit comparison of standard plan benefits. This emergency administrative regulation relates to KRS 304.17A-250(1), which requires the commissioner to define by administrative regulation one standard health benefit plan that shall provide coverage in the individual and small group markets after June 30, 2000. R.C. 304.17A-250(7), which requires the commissioner to prescribe a standard format for comparison of the standard plan benefits to other offered comparable plans. The bills go into effect on July 14, 2000. The need to promulgate this emergency administrative regulation is to provide direction to plans that offer health insurance coverage in the individual and small group markets regarding the standard benefit plan and the standard format for comparison of the standard benefit plans. This emergency administrative regulation will
be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department Of Insurance
Division of Health Insurance Policy and Managed Care
(Emergency Amendment)

805 KAR 17:180E. Standard health benefit plan and comparison format.

RELATES TO: KRS 304.17A-080, 304.17A-200 through 304.17A-430
[1999 Ky. Acts ch. 495, secs. 2-7, 16, 49]

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-250(1)
[1999 Ky. Acts ch. 495, secs. 7(1), 7(6)]

EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.17A-
250(1) requires [1999 Ky. Acts ch. 495, sec. 7(4)] mandates the com-
missioner to define by administrative regulation one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. KRS 304.17A-250(7) [1999 Ky. Acts ch. 495, sec. 7(7)(a)] requires the commissioner to prescribe a standard format for comparison of the standard plan benefits to other offered comparable plans and [-1999 Ky. Acts ch. 495, sec. 7(7)(e)] requires that the benefit comparison format include style, arrangement, overall appearance, and content of the benefit comparisons.

Section 1. Definitions. (1) "FFS" means a fee-for-service product type.
(2) "HMO" means a health maintenance organization product type.
(3) "POS" means a point-of-service product type.
(4) "PPO" means a preferred provider organization product type.
(5) "Standard health benefit plan" means the format, cost-sharing
levels, definitions, benefits, exclusions, and supplemental benefit rid-
ers established by the Department of Insurance and the Health Insur-
ance Advisory Council in accordance with KRS 304.17A-250 [1999 Ky. Acts ch. 495, sec. 7] and any other health insurance benefit man-
dated [established] by the General Assembly.

Section 2. Standard Benefits Comparison Format. (1) At the time of
initial solicitation of health insurance coverage in the individual or
nonemployer small group markets, the person soliciting the product
shall complete and deliver a benefit comparison form applicable to
the product being solicited as follows:
(a) A FFS health benefit plan shall be compared to the FFS stan-
dard benefit plan by using the Fee-for-Service Health Benefit Plan
Comparison Form which is incorporated by reference into this admin-
istrative regulation.
(b) A HMO health benefit plan shall be compared to the HMO
standard benefit plan by using the HMO Health Benefit Plan Compa-
nion Form which is incorporated by reference into this administrative regulation.
(c) A POS health benefit plan shall be compared to the POS stan-
dard benefit plan by using the POS Health Benefit Plan Comparison Form which is incorporated by reference into this administrative regulation.
(d) A PPO health benefit plan shall be compared to the PPO stan-
dard benefit plan by using the PPO Health Benefit Plan Comparison Form which is incorporated by reference into this administrative regulation.

(2) An insurer shall produce each form required by subsection (1) of
this section and supply each form to each person who solicits health insurance coverage for the insurer in the individual and nonemployer small group markets.

(3) In lieu of using a form required by subsection (1) of this sec-
tion, an insurer may use a form that is substantially similar to a com-
parison form incorporated by reference into this administrative regula-
tion. An insurer may modify a benefit comparison form required by
subsection (1) of this section in a manner that will:

(a) Provide additional comparative information;
(b) Compare multiple health benefit plans; or
(c) Disclose that a sample premium comparison is shown on the
benefit comparison form and inform the prospective applicant that
a specific premium will be provided upon receipt of the information ne-
necessary to generate an accurate comparison.

(4)[(a) For each product type listed in subsection (1) of this sec-
tion;
(a) The person soliciting health insurance coverage shall com-
pare the exclusions contained in the "Kentucky Standard Health
Benefit Plan", which is incorporated by reference into this adminis-
trative regulation [standard-health-benefit-plan-exclusions] to the exclu-
sions in the health benefit plan being solicited by using the "Kentucky
Standard Health Benefit Plan Comparison Form: Exclusions", which is incorporated by reference into this administrative regulation. In lieu of using the exclusion comparison form incorporated by reference, the insurer may use a form that is substantially similar to the "Kentucky Standard Health Benefit Plan Comparison Form: Exclusions."
(b) With respect to the exclusions comparison form required pursu-
ant to subsection (4)(a) of this section, the person soliciting health
insurance coverage shall:
1. Witness the signature of the prospective applicant on the exclu-
sions comparison form;
2. Sign the exclusions comparison form;
3. Date the exclusions comparison form as of the date of solicita-
tion; and
4. Attach the exclusions comparison form to the applicable prod-
uct comparison form completed pursuant to subsection (1) of this sec-
tion.
(c) The person soliciting health insurance coverage shall deliver a
copy of each completed benefit comparison form, together with a copy
of the completed and signed exclusions comparison form, to the pro-
spective applicant and to the insurer whose product is being solicited.
(d) Paragraph (b) of this subsection shall not apply to a direct
response solicitation. The exclusions comparison form for a direct
response solicitation shall be presented to the prospective applicant in
accordance with KRS 304.17A-250(7)(a)[3] [1999 Ky. Acts ch. 495, sec. 7(7)(e)]
(5) A benefit comparison form shall not be required if an insurer is
marketing only the standard health benefit plan.

Section 3. Modification Process. (1) The standard health benefit plan
and each comparison form shall remain in effect until July 15,
1999, and thereafter until such time as the plan or any form is modified
in accordance with the procedures established by this section.
(2) The standard health benefit plan and each comparison form
may be modified each successive year after July 15, 1999. Each
modification shall apply to each policy or certificate issued or renewed
on or after July 15 of each year.
(3) Any interested person wishing to make a recommendation for
modification of the standard plan shall:
(a) Submit their recommendation, in writing, to the Kentucky De-
partment of Insurance, Division of Health Insurance and Managed Care [Life and Health], by November 30 of the year preceding the year in which each modification is recommended for implementation.
(b) Explain the need for each recommended modification.
(c) Provide a statement regarding the cost effect of each recom-
mented modification.
(4) Within a reasonable time after November 30 of each year:
(a) The department shall present each recommendation for modi-
fication received pursuant to subsection (3) of this section to the
Health Insurance Advisory Council for consideration; and
(b) The Health Insurance Advisory Council shall review and dis-
cuss each recommendation for modification of the standard health
benefit plan in accordance with KRS 304.17A-260(3) [1999 Ky. Acts ch. 495, sec. 49]
(5) The Health Insurance Advisory Council shall make a final rec-
ommendation for modification of the standard health benefit plan based on the recommendations presented by the department pursuant to paragraph (a) of this subsection; and
(6) After considering the final recommendation for modification from the Health Insurance Advisory Council, the department shall either accept or decline, in writing, to modify the standard health bene-
fit plan.

- 397 -
(5) Each insurer issuing, delivering, or renewing a health benefit plan shall:

(a) Implement each modification to the standard health benefit plan and each benefit comparison form prescribed by the department; and

(b) Amend each policy form and rate filing to include every modification to the standard health benefit plan and each benefit comparison form.

(c) Complete and attach Form LH-35, "Health Benefit Plan Summary Sheet - Form Filings" to each health benefit plan filed with the department.

Section 4. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "Fee-for-Service Health Benefit Plan Comparison Form (1998 Edition)"
(c) "POS Health Benefit Plan Comparison (2000 [1998] Edition)"
(d) "PPO Health Benefit Plan Comparison Form (1998 Edition)"
(g) "Kentucky Standard Health Benefit Plan Effective July 15, 2000"

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contract Person: Charlotte K. Hummel

(1) Type and number of entities affected: This administrative regulation will affect all insurers licensed to engage in health insurance activities in the state of Kentucky that provide health insurance coverage in the individual and small group markets after June 30, 1998. Currently, there are 35 insurers authorized by the department to engage in health insurance activities in the individual and small group markets in this state. This administrative regulation will also affect those who solicit health insurance coverage in the individual and small group markets. Currently there are approximately 29,000 agents who are authorized to solicit health insurance coverage in the state of Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

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

1. First year following implementation: This administrative regulation will require persons soliciting health insurance coverage in the state of Kentucky to complete comparison forms and deliver the forms to the prospective applicant and the insurer. In addition, insurers will be required to offer the standard health benefit plan established by this administrative regulation. Lastly, insurers will be required to complete and attach Form LH-35 to each health benefit plan filed with the department. Because insurers are currently required to file information under 806 KAR 17:180, the cost to insurers for filing under this administrative regulation should not increase dramatically, if at all.

2. Second and subsequent years: The paperwork requirements for the first year following implementation of this administrative regulation will continue for the second and subsequent years. In addition, insurers may be required to amend policy forms and rate filings to comply with any modifications to the standard health benefit plan and the benefit comparison forms.

3. Additional factors increasing or decreasing costs: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The department currently collects and reviews recommendations for additions, deletions, or corrections to the standard health benefit plan and the benefits comparison format. The department will be required to either accept or decline the recommended modifications to the plan and comparison forms. The department does not anticipate that this new administrative regulation will increase costs dramatically, if at all.

2. Continuing costs or savings: The department will be required to review recommended modifications to the standard plan and comparison forms on an annual basis.

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

The department does not anticipate that there will be any effect on state and local revenues caused by the implementation of this administrative regulation.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.

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

(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.17A-250(1) and (7) require the commissioner to promulgate administrative regulations to specify the standard benefit plan and benefit comparison format. For this reason, no other alternatives were considered.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will assure that consumers of health insurance coverage in the state of Kentucky are informed about the benefits contained in the standard health benefit plan as opposed to the benefits in other comparable plans offered by insurers. In addition, this administrative regulation provides a process for modifying the standard health benefit plan and the format for the comparison of benefits and exclusions.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: If this administrative regulation were not implemented, there would be no uniform comparison benefit form that the consumers of health insurance coverage could utilize to compare the standard health benefit plan and other health benefit plans being offered. As a result, there would be fewer informed decisions with regard to the purchase of health insurance coverage in the state of Kentucky. Also, if this administrative regulation were not implemented there would be no procedures specified for modifying the standard health benefit plan.

(9) Identify any statute, administrative regulation, or government policy which may be in conflict, overlapping, or duplication: This emergency administrative regulation will amend existing 806 KAR 17:180 that currently governs standard health benefit plan and comparison formats.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(10) Any additional information or comments:
(11) TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all insurers licensed to engage in the health insurance activity in Kentucky that provide health insurance coverage in the individual and small group markets after June 30, 1998. Neither is tiering applied with respect to persons in soliciting health insurance coverage since this administrative regulation applies to all persons soliciting health insurance coverage to individuals or nonemployer small groups in Kentucky.

STATEMENT OF EMERGENCY
806 KAR 17:220E

This emergency administrative regulation establishes approval criteria and requirements for reentry into the Kentucky health insurance market. KRS 304.17A-260 provides that an insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-260 and then ceased doing business in Kentucky, may apply to the commissioner for approval to reenter the Kentucky market until April 1, 2001. The need to promulgate this administrative regulation as an emergency is to provide direction to those insurers that are seeking reentry into the Kentucky insurance market. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Division Of Health Insurance Policy and Managed Care
(Emergency Amendment)

806 KAR 17:220E. Approval criteria and requirements for reentry into the Kentucky health insurance market.


STATUTORY AUTHORITY: KRS 304.110(1)

EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the insurance code. KRS 304.17A-260 provides that an insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner for approval to reenter the Kentucky market. The Commissioner of Insurance is required to either approve or disapprove an insurer's request to reenter the Kentucky market. This administrative regulation is necessary to assist the commissioner in his decision to approve or disapprove the insurer's request to reenter the Kentucky market. This administrative regulation is also necessary to assure that the market reentry provisions in KRS 304.17A-260 conform to the market reentry provisions in 42 USC 300gg, sec. 2742.

Section 1. Application to Reenter [Request for Amnesty]. Each insurer wishing to apply for approval to reenter this state to engage in health insurance business in accordance with KRS 304.17A-260, [sec. 8] shall provide the following to the Commissioner of Insurance:
(1) A copy of the original notice from the insurer to the department notifying the department of the insurer's withdrawal from the health insurance market;
(2) A statement identifying and describing any existing health benefit plan being renewed but not currently marketed in Kentucky and indicating if describing the health benefit plan is offered in the following markets [by stating whether the plan is]:
(a) Individual;
(b) Small group;
(c) Large group; or
(d) Association;
(3) A statement identifying and describing any proposed health benefit plan to be marketed in Kentucky and if the health benefit plan will be offered in the following markets:
(a) Individual;
(b) Small group;
(c) Large group; or
(d) Association; [A statement identifying in which of the following markets the insurer intends to participate:
(e) Individual;
(f) Guaranteed Acceptance Program;
(g) Small-group;
(h) Large-group;
(i) Association]
(4) If the insurer will be utilizing a network;
(a) [A description of the service area in which it proposes to market; and
(b) The proposed provider directory or plan for contracting with providers;
(c) A description of the system for the marketing and sale of each health benefit plan [method of distribution for each product that will be marketed];
(d) A statement indicating the anticipated date for marketing new health benefit plans; and
(7) A copy of the insurer's audited financial statement for the three (3) years prior to the insurer's request for reentry [amnesty].
(8) A statement identifying whether the insurer's certificate of authority has been revoked or suspended in any state since it left the Kentucky market, and if so:
(a) The name of the state agency revoking or suspending the insurer's certificate of authority;
(b) The date of the revocation or suspension;
(c) The date, if any, of the reactivation of the certificate of authority; and
(d) The reasons given by the revoking or suspending state agency for the revocation or suspension;
(9) A statement identifying each fine over $10,000 the insurer has received since it left the Kentucky market, and if so:
(a) The name of the state agency issuing the fine;
(b) The amount of the fine;
(c) The amount of the fine; and
(d) The reasons given by the state agency for the fine; and
(10) A statement of intent to reenter the market within six (6) months of the commissioner's approval of reentry.

Section 2. [(14)] An insurer's anticipated date for marketing new plans shall not be more than ninety (90) days after the insurer's request for reentry into the health insurance market.
(2) Prior to the expiration of the ninety (90) day period in subsection (1) of this section, the insurer shall file the following with the Department of Insurance:
(a) Rates for each product to be marketed;
(b) Each form that will be utilized for each product; and
(c) An affidavit from an officer of the company, attesting to the fact that the company will be actively marketing each product for which rates and forms were filed with the department.
(3) The receipt by the Department of Insurance of a request for amnesty shall toll the deadline for returning to the health-insurance market provided that all information required pursuant to Section 1 of this administrative regulation is received by the department within two (2) weeks of the date the request for amnesty is received.

Section 3. Approval for Amnesty [Amnesty]. (1) The commissioner shall not approve an insurer's request for amnesty pursuant to KRS 304.17A-260 [42 USC 300gg] if:
(a) The commissioner has not received all information required by Section 1 of this administrative regulation; and
(b) The insurer is prohibited by 42 USC 300gg, sec. 2742 from reentering the health insurance market in this state; and
(c) A current financial and market conduct review has not been conducted, completed and approved by the department.
(2) The commissioner shall notify each insurer, in writing, of the decision to approve or disapprove the insurer's request for amnesty [Amnesty].

(2) The commissioner shall condition approval based upon an insurer's reentry into the health benefit plan market in this state within six (6) months from the date of approval.

(4) An insurer shall market a health benefit plan in this state within six (6) months from the date of approval of reentry or the insurer's approval for reentry shall be null and void.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contract Person: Charlette K. Hummel

(1) Type and number of entities affected: This administrative regulation will affect all insurers seeking approval to reenter Kentucky to engage in health insurance business pursuant to KRS 304.17A-260.

(2) Direct and indirect costs or savings on the:
  (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
  (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
  (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
    1. First year following implementation: KRS 304.2-110(1) authorizes the Commissioner of insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the insurance code. KRS 304.2-260 provides that an insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-260 and then ceased doing business in Kentucky, may apply to the commissioner for approval to reenter the Kentucky market. The commissioner of Insurance is required to either approve or disapprove an insurer's request to reenter the Kentucky market. This administrative regulation establishes the appropriate criteria and requirements for reentry into the Kentucky health insurance market. Because this is an amendment of an existing regulation, the department anticipates that this administrative regulation will have little effect upon the existing costs of complying.
    2. Second and subsequent years: The department anticipates that the costs of compliance with this administrative regulation will remain the same for the second and subsequent years.

(3) Effects on the promulgating administrative body:
  (a) Direct and indirect costs or savings:
    1. First year: This administrative regulation establishes approval criteria and requirements for reentry into the Kentucky health insurance market pursuant to KRS 304.17A-260. The department foresees some direct or indirect savings on the administrative body as a result of this administrative regulation because the department is able to make an early determination on whether or not to approve reentry to an insurer.
    2. Continuing costs or savings: The department anticipated that some direct or indirect savings will continue as a result of this administrative regulation because the department is able to make an early determination on whether or not to approve reentry to an insurer.
  3. Additional factors increasing or decreasing costs: None
  4. Assessment of anticipated effect on state and local revenues: None
  5. Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the department of Insurance will be used to implement and enforce this administrative regulation.
  6. To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
    (a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.
    (b) Kentucky: The department has received no public comments regarding this issue.
    (c) Assessment of alternative means: reasons why alternatives were not considered: KRS 304.17A-260 permits an insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-260 and then ceased doing business in Kentucky, to apply to the commissioner on or after April 10, 1998, until January 1, 2002. For this reason, no other alternatives were considered.
  8. Assessment of expected benefits:
    (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.
    (b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.
    (c) If detrimental effect would result, explain detrimental effect:
    (9) Identity 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:

STATEMENT OF EMERGENCY

806 KAR 17:230E

This emergency administrative regulation establishes the procedure to be followed when a medical director's signature is required on health care benefit denials. This emergency administrative regulation relates to HB 608 and SB 195 (KRS 304.17A-545) which requires a medical director's signature on health care benefit denials. The bills go into effect on July 14, 2000. The need to promulgate this emergency administrative regulation is to provide direction to managed care plans regarding the type of denials requiring a medical director's signature. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department Of Insurance
Division of Health Insurance Policy and Managed Care (Emergency)

806 KAR 17:230E. Requirements regarding medical director's signature on health care benefit denials.

RELATES TO: KRS 304.17A-540, 304.17A-545
STATUTORY AUTHORITY: KRS 304.2-110(1)
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the code. This administrative regulation establishes the procedure to be followed when a medical director's signature is required on health care benefit denials.

Section 1. Definitions. (1) "Adverse determination" is defined by
VOLUME 27, NUMÉR 2 – AUGUST 1, 2000

(2) "Coverage denial" is defined by 2000 Ky. Acts ch. 262, sec. 9(1).
(3) "Enrollee" is defined by KRS 304.17A-500(4).
(4) "Managed care plan" is defined by KRS 304.17A-500(8).
(5) "Notice of coverage denial" means a letter, a notice, or an Explanation of Benefits statement advising of a coverage denial as defined by 2000 Ky. Acts ch. 262, sec. 9(1).
(6) "Signature" means name, title, state of licensure and license number.

Section 2. Application. This administrative regulation shall apply to all managed care plans authorized by law to engage in managed care in the state of Kentucky.

Section 3. Appointment of Medical Director. (1) A managed care plan shall furnish the department with the name, residence address, business address, business telephone number, state of medical licensure, state medical license number, and biographical resume of each individual who shall serve as the medical director of the managed care plan.
(2) A managed care plan shall furnish the department with any change in medical director within thirty (30) days of the change.
(3) A managed care plan shall provide for an alternative medical director to serve in the event of the medical director’s absence and furnish the department with information as required in subsection (1) of this section.

Section 4. Letters of Denial for Adverse Determination or Notices of Coverage Denial. (1) Letters of denial for adverse determination or notices of coverage denial shall be sent to an enrollee’s last known address with a copy of same sent to the provider.
(2) Letters of denial requiring signature of the medical director of a managed care plan pursuant to KRS 304.17A-545(1)(d) shall include:
(a) Letters of adverse determination, including denials, limitations, reductions and terminations of services, based on lack of medical necessity; and
(b) Letters of adverse determination, including denials, limitations, reductions and terminations of services, based on lack of medical appropriateness.
(3) Notices of coverage denial shall not require the medical director’s signature.

Section 5. Signature of the Medical Director. For purposes of this administrative regulation, the signature of the medical director shall include:
(1) Handwritten and copies of original signature; or
(2) Electronic signature.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCGLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Char Hummel
(1) Type and number of entities affected: This administrative regulation will affect all licensed managed care plans in the state of Kentucky. Currently, there are 13 licensed managed care plans in this state.
(2) Direct and indirect costs or savings on the: (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: 2000 Ky. ch. 383, sec. 1 amends KRS 304.17A-545 to require the medical director of a managed care plan to sign a decision to deny a health care benefit. This administrative regulation establishes the procedure to be used when a medical director’s signature is required on health care benefit denials. The department anticipates that this administrative regulation will have minimal effect upon the costs of complying with the statutory requirements.
2. Second and subsequent years: The department does not anticipate the effect of this administrative regulation will change in the second and subsequent years.
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
(b) Reporting and paperwork 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: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation:
(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.
(b) Kentucky: The department has received no public comments regarding this issue.
(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.17A-545 requires signature of the medical director on denial letters. KRS 304.2-110(1) provides that the commissioner may promulgate administrative regulations as an aid to the effectuation of the code. This regulation establishes the procedure to be followed when a medical director’s signature is needed on a denial letter. For this reason, no other alternatives were considered.
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.
(b) State whether a detrimental effect on environment or public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.
(c) If detrimental effect would result, explain detrimental effect:
(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, orduplication: None
(10) Any additional information or comments:
(11) TIERING: Is tiering applied: Tiering is not applied since this administrative regulation applies to all managed care plans in the state of Kentucky.

STATEMENT OF EMERGENCY
806 KAR 17:250E

This emergency administrative regulation establishes the procedure to be followed when a medical director’s signature is required on health care benefit denials. This emergency administrative regulation relates to HB 608 and SB 195 (KRS 304.17A-545) which requires a medical director’s signature on health care benefit denials. The bills go into effect on July 14, 2000. The need to promulgate this emergency administrative regulation is to provide direction to managed care plans.
regarding the type of denials requiring a medical director's signature. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department Of Insurance
Division of Health Insurance Policy and Managed Care
(Emergency)

805 KAR 17:260E. Conversion policy minimum benefits.

RELATES TO: KRS 304.17A, 304.18-110, 304.18-120, 2000 Ky. Acts ch. 521, sec. 4
STATUTORY AUTHORITY: KRS 304.2-110(1), 304.18-120, 2000 Ky. Acts ch. 521, sec. 4
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Acts ch. 521, sec. 4, amended KRS 304.18-120 to require the department to promulgate administrative regulations to establish minimum benefits for a conversion policy issued pursuant to the conversion privilege contained in a group health policy. This administrative regulation establishes those requirements.

Section 1. Definitions. (1) "Conversion policy" means an individual health policy or certificate issued to an insured person pursuant to a conversion privilege contained in a group health policy upon termination of the insured person's coverage under the group policy.

(2) "Group policy" is defined in KRS 304.18-110(1)(a).

Section 2. Plan Cost Sharing. (1) A converted policy issued pursuant to a conversion privilege contained in a group managed care product shall have a maximum out-of-pocket limit for covered expenses incurred during a plan year as follows:

(a) $6,000 for a single person; and

(b) $12,000 for a family.

(2) A converted policy issued pursuant to the conversion privilege contained in a group indemnity product shall have a maximum deductible and out-of-pocket limit for covered expenses incurred during a plan year as follows:

(a) A deductible of $6,000 for a single person and an out-of-pocket limit of $6,000 after the deductible; and

(b) A deductible of $12,000 for a family and an out-of-pocket limit of $12,000 after the deductible.

Section 2. Minimum Benefits. (1) A converted policy issued pursuant to the conversion privilege contained in a group managed care product shall include the following minimum benefits:

(a) In hospital care:

1. Inpatient hospital room and board benefits in a maximum copayment amount of $1,000 per admission; and

2. Transplant coverage benefits in a maximum copayment amount of $1,000 per admission.

(b) Outpatient care:

1. Ambulatory outpatient surgery benefits in a maximum copayment amount of $500 per visit;

2. Provider office visits benefits in a maximum copayment amount of thirty (30) dollars per visit; and

3. Diagnostic tests benefits in a maximum copayment amount of thirty (30) dollars per testing session.

(c) Emergency care:

1. Hospital emergency room benefits in a maximum copayment amount of $150 per visit; and

2. Ground ambulance benefits in a maximum copayment amount of seventy-five (75) dollars per use.

(d) Medicare hospice benefits.

(2) A converted policy issued pursuant to the conversion privilege contained in a group indemnity product shall include the following minimum benefits:

(a) In hospital care:

1. Inpatient hospital room and board benefits in a maximum coinsurance amount of fifty (50) percent; and

2. Transplant coverage benefits in a maximum coinsurance amount of fifty (50) percent.

(b) Outpatient care:

1. Ambulatory outpatient surgery benefits in a maximum coinsurance amount of fifty (50) percent;

2. Provider office visit benefits in a maximum coinsurance amount of fifty (50) percent; and

3. Diagnostic tests benefits in a maximum coinsurance amount of fifty (50) percent;

(c) Emergency care:

1. Hospital emergency room benefits in a maximum coinsurance amount of fifty (50) percent; and

2. Ground ambulance benefits in a maximum coinsurance amount of fifty (50) percent;

(d) Medicare hospice benefits.

Section 3. Other Requirements. A conversion policy issued pursuant to a conversion privilege contained in a group health policy shall include benefits mandated to be included in a health benefit plan pursuant to KRS 304.17A, and may include additional benefits.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Char Hummel

(1) Type and number of entities affected: This administrative regulation will affect all insurers licensed to engage in insurance activities and issuing group health policies in the state of Kentucky. Currently, there are 32 authorized by the department to engage in insurance activities and issuing group health policies in this state.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

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

1. First year following implementation: 2000 Ky. Acts ch. 521, sec. 4(2) amends KRS 304.18-120 to require the department to promulgate administrative regulations to establish minimum benefits for a conversion policy issued pursuant to the conversion privilege contained in a group health policy. This administrative regulation establishes those requirements. To the extent insurers do not have a conversion product that already conforms to the regulation, the insurer will need to file a new product with the department or amend its existing product to conform to the regulation.

2. Second and subsequent years: The department anticipates the impact will be less in second and subsequent years as it was in the first year following implementation.

(3) Effects on the promulgating administrative body:

1. First year: The department does not foresee any direct or indirect costs or savings on the administrative body as a result of this administrative regulation.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department
of Insurance will be used to implement and enforce this administrative regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented. The department has received no public comments regarding this issue.
(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods, reasons why alternatives were rejected: 2000 Ky. Acts ch. 521, sec. 4 amended KRS 304.18-120 to require the commissioner to promulgate administrative regulations to establish minimum benefits for a conversion policy. For this reason, no other alternatives were considered.

(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.
(b) State whether a detrimental effect on environment or public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.
(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all insurers authorized to engage in insurance activities and issuing group health policies in the state of Kentucky.

STATEMENT OF EMERGENCY
806 KAR 17:280E

This emergency administrative regulation establishes the requirements for the registration of insurers or private review agents and the utilization review process, including internal appeals of decisions. This emergency administrative regulation relates to 2000 Ky. Acts ch. 262, sec. 5 which requires that the department promulgate emergency administrative regulations regarding utilization review and internal appeals, and to 2000 Ky. Acts ch. 262, sec. 7 which requires the department to promulgate emergency administrative regulations to develop a process for the registration of insurers or private review agents. The bills go into effect on July 14, 2000. The need to promulgate this emergency administrative regulation is to establish requirements for the registration of insurers or private review agents, and for the utilization process, including internal appeals of decisions, on an emergency basis pursuant to the acts. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department Of Insurance
Division of Health Insurance Policy and Managed Care
(Emergency)

806 KAR 17:280E. Registration, utilization review, and internal appeal.

RELATES TO: 2000 Ky. Acts ch. 262, secs. 5, 7, 26, 28, 29, 30, 31

STATUTORY AUTHORITY: KRS 304.2-110(1), 2000 Ky. Acts ch. 262, sec. 5, 7

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Acts ch. 262, sec. 5, requires that the department promulgate emergency administrative regulations regarding utilization review and internal appeal. 2000 Ky. Acts ch. 262, sec. 7, requires that the department promulgate emergency administrative regulations to develop a process for the registration of insurers or private review agents. This administrative regulation establishes requirements for the registration of insurers or private review agents, and the utilization review process, including internal appeal of decisions.

Section 1. Definitions. (1) "Adverse determination" is defined in 2000 Ky. Acts ch. 262, sec. 11(14).
(2) "Board" means one (1) of the following governing bodies:
(a) The American Board of Medical Specialties;
(b) The American Osteopathic Association; or
(c) The American Board of Podiatric Surgery.
(3) "Coverage denial" is defined in 2000 Ky. Acts ch. 262, sec. 9(1).
(4) "Department" means the Department of Insurance.
(5) "Insurer" is defined in 2000 Ky. Acts ch. 262, sec. 1(6).
(6) "Notice of coverage denial" means a letter, a notice, or an Explanation of Benefits statement advising of a coverage denial as defined by 2000 Ky. Acts ch. 262, sec. 9(1).

(7) "Policies and procedures" means the documentation which outlines and governs the steps and standards used to carry out functions of the utilization review program, the release of which is governed by 2000 Ky. Acts ch. 262, sec. 7(6).

(8) "Private review agent" is defined in 2000 Ky. Acts ch. 262, sec. 1(10).

(9) "Qualified personnel" is defined in 2000 Ky. Acts ch. 262, sec. 1(13).

(10) "Registration" is defined in 2000 Ky. Acts ch. 262, sec. 1(14).

(11) "Utilization review" is defined in 2000 Ky. Acts ch. 262, sec. 1(15).

(12) "Utilization review plan" is defined in 2000 Ky. Acts ch. 262, sec. 1(17).

Section 2. Registration Required. (1) The department shall issue or renew a registration to an applicant that has met all requirements of 2000 Ky. Acts ch. 262, sec. 1 through 10 and 12, and this administrative regulation.

(2) An applicant seeking issuance or renewal of registration shall:
(a) Submit an application for issuance or renewal of registration to the department as required by Section 4 of this administrative regulation;
(b) Pay an application fee as required by Section 3 of this administrative regulation.

(3) An application for issuance or renewal of registration shall be accompanied by the required documentation listed in Section 4 of this administrative regulation.

(4) An application for renewal of registration shall be submitted to the department at least ninety (90) days prior to expiration of the registration.

Section 3. Fees. (1) An application for issuance or renewal of registration shall be accompanied by a fee of $1,000 to pay administrative and other costs associated with carrying out the provisions of 2000 Ky. Acts ch. 262, sec. 1 through 8; and
(2) A submission of changes to utilization review policies or procedures to the department shall be accompanied by a fee of fifty ($50) dollars to pay administrative and other costs associated with carrying out the provisions of 2000 Ky. Acts ch. 262, sec. 1 through 8.

Section 4. Application Process. (1) An applicant shall file an application for issuance or renewal of registration with the department which shall comply with the requirements established by 2000 Ky. Acts ch. 262, sec. 4 and 5, including:
(a) A utilization review plan that includes the items listed in 2000 Ky. Acts ch. 262, sec. 5(1);
(b) Types and qualifications of personnel performing utilization review in compliance with 2000 Ky. Acts ch. 262, sec. 4(1)(a), including:
(i) A list of three (3) individuals responsible for the operation of the
entity performing utilization review;
2. Names, addresses, and telephone numbers of the medical director and contact persons for questions regarding the filing of the application; and
3. Qualification of personnel employed directly or under contract by various job category.
(c) A toll-free telephone number to contact the Insurer or private review agent, as required by 2000 Ky. Acts ch. 262, sec. 4(1)(e) and 5(3);
(d) A copy of the policies and procedures required by 2000 Ky. Acts ch. 262, sec. 5(4) regarding reasonable accessibility during normal business hours;
(e) A copy of the policies and procedures to ensure availability twenty-four (24) hours a day, seven (7) days a week, if preauthorization is required by 2000 Ky. Acts ch. 262, sec. 4(1)(f);
(f) The policies and procedures by which an insurer or private review agent provides a notice of review decision in compliance with 2000 Ky. Acts ch. 262, sec. 4(1)(i) and 9(2)(e), concerning a denial, limitation, reduction or termination of health care benefits and including:
1. Date of the review decision evidenced by date of letter;
2. Instructions for filing an internal appeal, including information concerning:
   a. A request for review by a board eligible or certified physician; and
   b. Appeal of a coverage denial to the department; and
3. Notification of availability of the external review process.
(g) If only a part of the utilization review process, rather than the entire utilization review process, is delegated, identify the:
1. Delegated function;
2. Entity to whom the function was delegated by name, address, and telephone number; and
3. Monitoring mechanism used by the insurer or private review agent to assure compliance with paragraph (f) of this subsection.
(h) A sample copy of the notice of review decision letter to be sent in compliance with paragraph (g) of this subsection;
(i) A listing of the policies and procedures by which a covered person or provider can appeal an adverse determination or coverage denial in accordance with 2000 Ky. Acts ch. 262, sec. 9, including:
1. The method by which an appeal may be initiated, including:
   a. An oral or written request for an expedited internal appeal;
   b. A written request for a nonexpedited internal appeal; and
2. The completion of any specific forms, including a medical release consent form;
3. Time frames for conducting review of an initial decision and for issuing an internal appeal decision;
4. Qualifications of the person conducting internal appeal of the initial decision; and
5. Information relating to the internal appeal decision, including:
   a. The name, title, and if applicable, the license number, state of licensure, and certification of specialty of the person making the internal appeal decision;
   b. A description of the basis for the appeal;
   c. The decision in clear terms and sufficient detail to explain the decision; and
6. Instructions for initiating the external review process.
(j) A copy of the internal appeal decision letter to be sent in compliance with paragraph (h) of this subsection;
(k) A copy of the policies and procedures to:
1. Protect the confidentiality of medical information in accordance with 2000 Ky. Acts ch. 262, sec. 5(5);
2. Comply with requirements of 2000 Ky. Acts ch. 262, sec. 8 relating to payment if the insurer or private review agent fails to:
   a. Provide a timely utilization review decision; or
   b. Be accessible, as determined by verifiable documentation of a provider's attempts to contact, including verification by electronic transmission records or telephone company logs;
3. Comply with requirements of 2000 Ky. Acts ch. 262, sec. 10 regarding the submission of new clinical information prior to the initiation of the external review process;
4. Ensure consistent application of review criteria and the rendering of compatible decisions; and
5. Comply with requirements of 2000 Ky. Acts ch. 262, sec. 4(1)(j) regarding the review and comment on protocols by providers.
(k) A copy of written materials that provide covered persons and providers with the following information and the mechanism for disseminating the written material:
1. Their rights, responsibilities and liabilities in accessing covered services subject to utilization review, including the documentation requirements of 2000 Ky. Acts ch. 262, sec. 8 and identify:
   a. When utilization review is required;
   b. Who may request utilization review; and
   c. When the insurer or utilization review agent shall be contacted.
2. Telephone numbers and hours of operation of the insurer or private review agent and how to contact the insurer or private review agent for a review determination after normal business hours;
3. Time frames for utilization review decisions in accordance with 2000 Ky. Acts ch. 262, sec. 4(1)(h);
4. Explanation that the failure of an insurer to make a timely determination within those time frames shall be deemed to be an adverse determination for the purpose of initiating an internal appeal;
5. The right to file a written complaint with the Division of Health Insurance Policy and Managed Care in accordance with 2000 Ky. Acts ch. 262, sec. 7(8); and
6. Appeal rights to challenge an adverse determination or coverage denial, including:
   a. Internal appeals, including expedited appeals; and
   b. External reviews, including expedited reviews.
7. The right of a covered person to request departmental review of a coverage denial after an insurer or private review agent upholds a coverage denial on internal appeal, in accordance with 2000 Ky. Acts ch. 262, sec. 9(2)(e); and
8. The option of a covered person to request that an internal appeal be conducted by a board eligible or certified physician in the appropriate specialty or subspecialty area in accordance with 2000 Ky. Acts ch. 262, sec. 9(2)(c);
9. The right of a provider to review and comment on protocols pursuant to 2000 Ky. Acts ch. 262, sec. 4(1)(j); and
10. The right of a covered person to submit new clinical information at any time during an internal appeal or external review of an adverse determination or coverage denial to an:
   a. Insurer;
   b. Provider; and
   c. Independent review entity.
(l) A listing of the entities for which the private review agent is performing utilization review in this state in accordance with 2000 Ky. Acts ch. 262, sec. 4(4).
(2) Upon receipt of an application for issuance or renewal of registration the department shall:
   a. Inform the applicant if supplemental information is or is not needed;
   b. Applicant shall submit requested information within thirty (30) days; or
   c. If requested information is not provided to the department within thirty (30) days, the department shall:
      a. Deny the application for issuance or renewal of registration; and
      b. Not refund the application fee.
   (k) Review the application and material required by 2000 Ky. Acts ch. 262, sec. 1 through 10 and sec. 12, and this administrative regulation; and
   (l) Approve or deny issuance or renewal of registration.
Section 5. Denial or Revocation Hearing Procedure. Upon the denial of an application for issuance or renewal of a registration, or suspension or revocation of an existing registration, the department shall give written notice of its action and advise the applicant or registrant holder that an application for a hearing may be filed in accordance with KRS 304.2-310.
Section 6. Utilization Review Complaint Process. (1) A written complaint regarding utilization review shall be filed with the Division of Health Insurance Policy and Managed Care in accordance with 2000 Ky. Acts ch. 262, sec. 7(8):
   a. A written complaint may be:
      1. Handwritten or typed;
      2. Electronic; or
      3. Facsimile; and
Section 7. Internal Appeals. In addition to the requirements of 2000 Ky. Acts ch. 262, sec. 9, as part of an internal appeals process, an insurer or private review agent shall:

(1) Allow a covered person to request an internal appeal within sixty (60) days of receipt of a denial letter;

(2) Provide written notification of a decision as required by 2000 Ky. Acts ch. 262, sec. 9(2), which shall include the:
   (a) Name, title, and if applicable, the license number, state of licensure and specialty certifications, if any, of the reviewer;
   (b) Name and telephone number of a contact person who may provide information relating to internal review; and
   (c) Date the decision was rendered;

(3) Maintain written records to document all internal appeals received during a calendar year;

(4) Include within an internal appeal record:
   (a) A description of the reason for the internal appeal;
   (b) The date the internal appeal was received by the insurer or private review agent;
   (c) The date the appeal was conducted;
   (d) The date of the internal appeal decision;
   (e) The internal appeal decision; and
   (f) The information required by Section 4(1)(b)4 of this administrative regulation;

(5) Retain for five (5) subsequent years the records for a calendar year in accordance with 806 KAR 2:070.

Section 8. Contents of a Denial Letter and Notice of Coverage Denial. (1) A denial letter shall:

(a) Be issued by an insurer or private review agent for an adverse determination; and

(b) Include the elements required by 2000 Ky. Acts ch. 262, sec. 4(1)(f) and sec. 9(2)(e), and by Section 4(1)(f) of this administrative regulation;

(2) A notice of coverage denial, whether issued prospectively or retrospectively, shall include:

(a) A provision notifying that denial is pursuant to a specified health benefit plan contract term;

(b) The name and phone number of a contact person regarding the notice of coverage denial; and

(c) Instructions for initiating an appeal.

Section 9. Reporting Requirements. An insurer or private review agent shall, beginning March 1, 2001 and continuing each calendar year thereafter, submit to the department an annual utilization review report for the previous calendar year.

Section 10. Cessation of Operations to Perform Utilization Review. (1) Upon a decision to cease utilization review operations in Kentucky, an insurer or private review agent shall submit the following to the department ninety (90) days prior to ceasing operations:

(a) Written notification of the cessation of operations, including the proposed date of cessation and the number of pending utilization reviews with corresponding assignment dates; and

(b) A written action plan for cessation of operations, which shall be subject to approval by the department prior to implementation.

(2) Annual reports required pursuant to Section 8 of this administrative regulation shall be submitted to the department prior to ceasing operations.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Utilization Review Registration Application, HIPMC-UR-1 (7/00);

(b) Annual Utilization Review Report Form, HIPMC-UR-2 (7/00).

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Charlotte K. Hummel

(1) Type and number of entities affected: This administrative regulation will affect all insurers licensed to engage in health insurance activities in the state of Kentucky and private review agents. Currently, there are 60 health insurers authorized by the department to engage in health insurance activities in this state, and an unknown number of private review agents.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

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

1. First year following implementation: 2000 Ky. Acts ch. 262, sec. 5 requires that the department promulgate emergency regulations regarding utilization review and internal appeal. 2000 Ky. Acts ch. 282, sec. 7 requires that the department promulgate emergency administrative regulations regarding utilization review and internal appeal. Because the requirements currently exist by statute, the department does not anticipate that this administrative regulation will have a substantial effect upon the costs of complying with the requirements.

2. Second and subsequent years: The department does not anticipate that this administrative regulation will have a substantial effect upon the costs of compliance in the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The department anticipates both direct and indirect costs on the administrative body as a result of this administrative regulation. The department will have additional costs in the amount of $87,000 the first year. The costs will be absorbed within the department of Insurance.

2. Continuing costs or savings: $79,000 additional costs the second year and thereafter.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The costs will be absorbed within the resources available to the Department of Insurance.

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

(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(7) Assessment of alternative methods; reasons why alternatives were rejected: 2000 Ky. Acts ch. 262, sec. 5 requires that the department promulgate emergency administrative regulations regarding utilization review and internal appeal. 2000 Ky. Act ch. 262, sec. 7 requires that the department promulgate emergency administrative regulations to develop a process for the registration of insurers or private review agents. For these reasons, no other alternatives were considered.

(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department anticipates that this administrative regulation will have a positive effect on public health or environmental welfare in Kentucky.
(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on environment or public health would result if this administrative regulation were not implemented. The regulation establishes a process for the registration of insurers and private review agents and a means for insureds to appeal their insurer's decision regarding coverage denials or medical necessity.
(c) If detrimental effect would result, explain detrimental effect:

(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all insurers authorized to engage in health insurance activities in the state of Kentucky and to all private review agents who desire to perform utilization review functions in the state of Kentucky.

STATEMENT OF EMERGENCY
806 KAR 17:290E

This emergency administrative regulation establishes the procedure to be followed regarding the external review program. This administrative regulation relates to 200 Ky. Acts ch. 262, sec. 15, which requires that the department promulgate administrative regulations regarding the external review program. This administrative regulation establishes insurer requirements, procedures for the certification of independent review entities, and the process for initiating and conducting external review decisions. The bills go into effect on July 14, 2000. The need to promulgate this emergency administrative regulation is to provide direction to insurers and independent review entities regarding the external review program in effect on July 14, 2000. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department Of Insurance
Division of Health Insurance Policy and Managed Care (Emergency)

806 KAR 17:290E. Independent external review program.

RELATES TO: 2000 Ky. Acts ch. 262, secs. 11 through 16
STATUTORY AUTHORITY: KRS 304.2-110(1), 2000 Ky. Acts ch. 262, sec. 15
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Acts ch. 262, sec. 15, requires that the department promulgate administrative regulations regarding the independent external review program. This administrative regulation establishes insurer requirements, procedures for the certification of independent review entities, and the process for initiating and conducting external review decisions. It also establishes disclosure requirements of the external review process to be included in the health benefit plan issued at enrollment of a covered person.

Section 1. Definitions. (1) "Adverse determination" is defined in 2000 Ky. Acts ch. 262, sec. 11(1).
(2) "Assign" or "assign" means selection of an independent review entity by an insurer, and acceptance of a request to conduct an external review by an independent review entity.
(3) "Coverage denial" is defined in 2000 Ky. Acts ch. 262, sec. 9(1).
(4) "Covered person" is defined in 2000 Ky. Acts ch. 262, sec. 1(4).
(5) "Department" means the Department of Insurance.
(6) "Electronic" or "electronically" is defined by 2000 Ky. Acts ch. 436, sec. 1(7).
(7) "External review" is defined by 2000 Ky. Acts ch. 262, sec. 1(5).
(8) "Independent review entity" is defined in 2000 Ky. Acts ch. 262, sec. 1(7).
(9) "Insurer" is defined in 2000 Ky. Acts ch. 262, sec. 1(8).
(10) "Reviewer" means an individual selected by the independent review entity to conduct an external review and make a recommendation to the independent review entity.

Section 2. Requirements of an Insurer. (1) An insurer shall:
(a) Disclose to a covered person in a consumer-friendly written format the following information concerning an external review:
1. At the time of enrollment, the right to an external review in accordance with 2000 Ky. Acts ch. 262, sec. 27(1)(g);
2. The availability of an external review in the insurer's notice of an adverse determination or notice of coverage denial in accordance with 2000 Ky. Acts ch. 262, sec. 12(1); and
3. Instructions for initiating an external review in the internal appeal decision letter including:
   a. Whether the appeal must be in writing;
   b. How to complete any forms;
   c. Applicable time frames;
   d. The name and phone number of a contact person who can provide additional information about an external review; and
   e. Any other required documentation.
(b) Allow a covered person, authorized person or provider acting on behalf of and with the consent of a covered person, to submit an oral request, followed by an abbreviated written request, for an expedited external review;
(c) Provide the following information relating to an external review in the policy or certificate of coverage issued at the time of enrollment of a covered person and thereafter upon request:
1. The circumstances whereby the following types of external review shall be provided:
   a. Nonexpedited external review in accordance with 2000 Ky. Acts ch. 262, sec. 12(3), (4) and (6); and
   b. Expedited external review in accordance with 2000 Ky. Acts ch. 262, sec. 12(10), (11) and (12).
2. The filing fee for requesting an external review in accordance with 2000 Ky. Acts ch. 262, sec. 12(5);
3. That the cost for an external review by an independent review entity shall be paid by the insurer in accordance with 2000 Ky. Acts ch. 262, sec. 13(5);
4. The procedure for submitting:
   a. An oral request followed up by an abbreviated written request, or a written request for an expedited external review;
   b. A written request for a nonexpedited external review; and
   c. The completion of any specific forms, including a medical release consent form;
5. The time frame for:
   a. Submitting a request for external review in accordance with 2000 Ky. Acts ch. 262, sec. 12(4);
   b. Rendering a decision by an independent review entity in accordance with 2000 Ky. Acts ch. 262, sec. 12(12) and (13); and
   c. Compliance of an insurer with a decision of the independent review entity;
6. The telephone number and name of a contact person of the
insurer who may provide information relating to an external review;
7. A statement relating to the confidential treatment of medical records and information relating to the external review; and
8. A statement of the availability and a description of a complaint process through the department relating to:
   a. A covered person’s right to an external review in accordance with 2000 Ky. Acts ch. 262, sec. 12(6), and
(d) Make a determination whether an external review is warranted in accordance with 2000 Ky. Acts ch. 262, sec. 12(3) and (10), and notify the requester of that determination within the following time periods:
   1. For expedited reviews, within sufficient time to comply with 2000 Ky. Acts ch. 262, sec. 12(11); or
   2. For nonexpedited reviews, within five (5) business days of receipt of the request.
(e) Upon a determination that an external review is warranted, assign an independent review entity to perform the external review from a list of certified independent review entities which shall be provided by the department. The assignment of an independent review entity from the list shall be on a consecutive rotation basis, using all independent review entities on the list, subject to Section 3(1) of this administrative regulation;
(f) Upon the assignment of an independent review entity, complete and send to the department within three (3) business days an Assignment of Independent Review Entity Form, HIPPMC-IRE-2 (7/00) which is incorporated by reference in this administrative regulation;
(g) Upon assignment of an independent review entity:
   1. For an expedited external review:
      a. Comply with the time period established by 2000 Ky. Acts ch. 262, sec. 12(12); and
      b. Deliver to the independent review entity all information required to be considered by the independent review entity, as set forth in 2000 Ky. Acts ch. 262, sec. 13(1), within twenty-four (24) hours of assignment.
   2. For a nonexpedited external review:
      a. Comply with the time period established by 2000 Ky. Acts ch. 262, sec. 12(13); and
      b. Deliver to the independent review entity all information required to be considered by the independent review entity, as set forth in 2000 Ky. Acts ch. 262, sec. 13(1), within three (3) business days of assignment;
(h) Upon receipt of new information submitted pursuant to 2000 Ky. Acts ch. 262, sec. 12(6)(b):
   1. Immediately send a copy of the new information as applicable to:
      a. Covered person or authorized person;
      b. Provider; and
      c. Independent review entity.
   2. Consider reversal of the internal appeal decision based upon the new information; and
   3. If the internal appeal decision is reversed:
      a. Provide written notice of the reversal as applicable to:
         (i) Covered person or authorized person;
         (ii) Provider who initiated the appeal; and
         (iii) Independent review entity; and
      b. Pay the fee in accordance with Section 3(17)(b) of this administrative regulation.
(i) Within thirty (30) days of receipt of a decision relating to external review from an independent review entity, implement the decision;
(j) Upon receipt of an itemized statement of services rendered and costs, pay the independent review entity within thirty (30) days;
(k) Maintain a written record of each external review; and
(l) Provide a copy of the covered person’s health insurance policy to the independent review entity.
(2) If a request for external review is denied by an insurer:
   (a) Written notification shall be provided to the person requesting the external review and shall include:
      1. The date the request for external review was received by the insurer;
      2. A statement relating to the nature of the request;
      3. The rationale of the insurer denying the request;
      4. A statement relating to the availability of review by the department if a dispute arises regarding the right to external review;
      5. The toll-free telephone number of the department; and
      6. The name and telephone number of a contact person who shall provide information relating to the denial of the request.
(3) Upon request by the department, provide a copy of the written notification described in paragraph (a) of this subsection.

Section 3. Requirements of an Independent Review Entity. (1) An independent review entity shall accept a request for assignment unless:
   a. A conflict of interest exists; or
   b. Confidentiality issues exist.
(2) Upon receipt of a request for assignment from an insurer an independent review entity shall:
   a. Determine whether a conflict of interest exists and confidentiality requirements of an insurer can be met; and
   b. Immediately provide written notification to an insurer of the rejection of an assignment if:
      a. A conflict of interest exists;
      b. Confidentiality requirements of an insurer cannot be met; or
      2. Within twenty-four (24) hours of receipt of the request for assignment, provide written notification to an insurer of the acceptance of an assignment if:
         a. No conflict of interest exists; and
         b. Confidentiality requirements of an insurer can be met; and
         (c) Maintain a written record of:
            1. Whether the external review relates to an adverse determination or a coverage denial;
            2. The specific issue or issue to be resolved by the external review; and
            3. Whether the external review merits expedited or nonexpedited external review;
(3) Take the following actions if a conflict of interest is discovered at any time during the external review process:
   (a) Immediately terminate the external review; and
   (b) Provide written notification of and the reason for the termination of the external review to the insurer and department;
(4) For each external review, obtain and maintain on file a signed statement of a reviewer that he has no conflict of interest.
(5) Upon the receipt of new information from a covered person, authorized person or provider acting on behalf of and with the consent of a covered person, immediately send a copy of the new information to the following, as applicable:
   a. Covered person or authorized person;
   b. Provider; and
   c. Insurer;
   (6) Have a reviewer with expertise in:
      a. Health insurance benefits and contracts and who shall be available to serve as a reviewer, in addition to a health care professional reviewer, in an external review of a coverage denial which requires the resolution of a medical issue in accordance with 2000 Ky. Acts ch. 262, sec. 10(5)(d); and
      b. Health care and who shall:
         1. Be available to conduct an external review of a coverage denial which requires resolution of a medical issue and an adverse determination; and
         2. Meet the following requirements:
            a. Hold active licensure in a state of the United States;
            b. Have recent experience or familiarity with current body of knowledge and applicable specialty practice;
            c. Have at least five (5) years of experience in the specialty of the external review;
      d. Hold current board certification by:
         (i) The American Board of Medical Specialties if the reviewer is a medical doctor;
         (ii) The American Osteopathic Association if the reviewer is a doctor of osteopathic medicine; or
         (iii) The American Board of Podiatric Surgery if the reviewer is a doctor of podiatric medicine;
      (7) Establish criteria in accordance with 2000 Ky. Acts ch. 262, sec. 14(5), (7), and (9) for:
         (a) Selection of a qualified reviewer, including the initial verification and reverification every two (2) years of credentials of the reviewer;
         (b) Ensuring that an appropriate reviewer performs the external
review;
  (c) Ensuring that an appropriate number of reviewers are used for the external review; and
  (d) Ensuring that at least one (1) reviewer qualified in each medical specialty is available for external review;
  (8) Have a medical director or clinical director with professional postresidency experience in direct patient care who shall:
    (a) Hold a current license to practice medicine;
    (b) Provide guidance for the medical aspects of the external review process;
    (c) Oversee the medical aspects of the quality management program; and
    (d) Oversee the medical aspects of the reviewer credentialing program;
  (9) Establish and implement criteria for determination of the need for a time extension of:
    (a) Twenty-four (24) hours to render a decision in an expedited external review in accordance with 2000 Ky. Acts ch. 262, sec. 12(12); and
    (b) Fourteen (14) calendar days to render a decision in a nonexpedited external review in accordance with 2000 Ky. Acts ch. 262, sec. 12(13);
  (10) Provide written notification of a decision as required by 2000 Ky. Acts ch. 262, sec. 13(6); which shall include the:
    (a) Name, title, and license number, state of licensure and specialty certifications, if any, of the reviewer;
    (b) Name and telephone number of a contact person who may provide information relating to external review; and
    (c) Date the decision was rendered;
  (11) Establish written policies and procedures for maintenance and the confidential treatment of external review records in accordance with 2000 Ky. Acts ch. 262, sec. 12(9) and applicable state and federal law;
  (12) Maintain a written record of an external review for a minimum of five (5) years in accordance with 805 KAR 2:070 which shall include as applicable:
    (a) All documentation relating to the external review pursuant to 2000 Ky. Acts ch. 262, sec. 13(1)(a);
    (b) The independent review entity's decision regarding each issue identified in the external review;
    (c) The name, credentials, and specialty of the reviewer;
    (d) Medical evidence and information considered during the review;
    (e) References to any medical literature or research data or national clinical criteria upon which the independent review entity's decision was based;
    (f) A copy of relevant policy language of the insurer, including any relevant contractural definition of medical necessity;
    (g) For expedited review, after hours contact information for the insurer;
    (h) A copy of the adverse determination or coverage denial, and the internal appeal decision; and
    (i) A copy of all correspondence and communication between the independent review entity, the reviewer and any other person regarding the external review, including a copy of the final decision letters;
  (13) Provide toll-free telephone access that:
    (a) Operates at a minimum from 9 a.m. until 5 p.m. of each business day in each time zone where the services under review are in dispute; and
    (b) Allows for:
      1. Receiving after-hours requests for external review; and
      2. Acting on expedited external review requests in accordance with 2000 Ky. Acts ch. 262, sec. 12(12);
  (14) If an external review function, or any portion thereof, is delegated or subcontracted to another person or organization, submit:
    (a) Policies and procedures relating to oversight activities to ensure compliance with requirements of an independent review entity as established in 2000 Ky. Acts ch. 262, and this administrative regulation; and
    (b) A copy of the agreement whereby the external review function is delegated or subcontracted;
  (15) Establish and maintain a written quality assurance program in accordance with 2000 Ky. Acts ch. 262, sec. 14(6) which shall be made available to the public upon request and shall include a written plan which addresses:
    (a) Scope and objectives;
    (b) Program organization;
    (c) Monitoring and oversight mechanisms; and
    (d) Evaluation and organizational improvement of external review activities, including:
      1. Objectives and approaches used in the monitoring and evaluation of external review activities, including the systematic evaluation of complaints for patterns and trends;
      2. The implementation of an action plan to improve or correct an identified problem; and
      3. The procedures to communicate the results of an action plan to its employees.
  (16) Provide written notification to the department of:
    (a) A change in status of accreditation for external review within five (5) business days of the status change, if accredited pursuant to 2000 Ky. Acts ch. 262, sec. 17(1);
    (b) Any imposition of a sanction or receipt of letter of reprimand related to external review, upon receipt; and
    (c) A change in the application submitted to and approved by:
      1. The National Committee for Quality Assurance or the American Accreditation Health Care Commission, if applicable; and
      2. The department for certification as an independent review entity;
  (17) Submit a copy of any change to information provided on the Application for Certification of an Independent Review Entity in writing to the department for approval within thirty (30) days prior to implementation of the change;
  (18) Submit a new application for certification if requested by the department following notification of a material change in the application information as required by 2000 Ky. Acts ch. 262, sec. 14(2);
  (19) Establish a fee structure, to be available upon request, for each type or level of external review, including at a minimum, a fee for:
    (a) A completed external review of:
      1. A coverage denial; and
      2. An adverse determination; and
    (b) An incomplete external review due to reversal of an internal appeal decision in accordance with Section 2(1)(g)(2) of this administrative regulation;
  (20) Immediately terminate an external review and provide written notification of the termination to the insurer requesting the external review, as appropriate, and the department if:
    (a) A conflict of interest if discovered at any time during the external review process; or
    (b) If a reversal of a coverage denial or adverse determination is received in writing from the insurer;
  (21) If more than one (1) reviewer is utilized in making a decision:
    (a) Render an overall decision based upon the majority decision of the reviewers; and
    (b) If the reviewers are evenly split as to whether the recommended or requested health care service or treatment should be covered, request an additional reviewer to make a binding majority decision;
  (22) Provide written notification of the decision to:
    (a) The covered person or authorized person, treating provider, and insurer within two (2) business days of making the decision; and
    (b) The department by completing an External Review Decision Notification Form, HIP/MCRE-4 (700) incorporated by reference herein, within ten (10) business days of rendering a decision.
  (23) Implement a written policy and procedure for each aspect of an external review process, including:
    (a) Processing of the request for assignment of an external review from an insurer;
    (b) Receipt and maintenance of medical records and information from insurer;
    (c) Ensuring access to a sufficient number of appropriate qualified reviewers;
    (d) Ensuring the credentialing, selection and notification of a reviewer of external review;
    (e) Rendering a timely decision and issuance of notification of the decision;
    (f) Ongoing monitoring and evaluation of the performance of a reviewer; and
    (g) Monitoring and oversight of a delegated external review func-
tion, if any;
(h) Billing for and collection of fees for external review, including filing fee of covered person and cost of external review borne by the insurer;
(i) Collecting and reporting data;
(j) Receipt and consideration of new clinical information;
(k) Termination of external review; and
(l) Response to a request for information relating to a complaint filed with the department or by others;
(24) Conduct a periodic formal program for training reviewers and provide a written record of the training to the department upon request; and
(25) Be prohibited from delaying or performing an external review contingent upon collection of a filing fee from the covered person.

Section 4. Application Process for Certification to Perform External Reviews. (1) To perform an external review, an independent review entity shall be certified in accordance with requirements as established in 2000 Ky. Acts ch. 262, sec. 14 and this administrative regulation.
(2) To be certified to perform an external review, an independent review entity shall:
(a) If it is accredited as an external review organization in accordance with 2000 Ky. Acts ch. 262, sec. 1(7):
1. Complete and submit to the department the applicable sections of an Application for Certification of an Independent Review Entity, HIPMC-IRE-1 (7/00), incorporated by reference in this administrative regulation;
2. Submit a fee with the application for certification as required by Section 5 of this administrative regulation, made payable to the Kentucky State Treasurer; and
3. Enclose with the application, a copy of the following accreditation documents:
   a. A completed application required and approved by the National Committee for Quality Assurance or the American Accreditation HealthCare Commission for accreditation purposes;
   b. All written documents provided to the National Committee for Quality Assurance or the American Accreditation HealthCare Commission to demonstrate compliance with its standards of accreditation;
   c. The most current accreditation status report issued by National Committee for Quality Assurance or the American Accreditation HealthCare Commission, if any; and
   d. The certificate of accreditation as an external review organization, which includes the expiration date of accreditation.
(b) If it is not accredited in accordance with 2000 Ky. Acts ch. 262, sec. 1(7):
1. Complete and submit to the department the Application for Certification of an Independent Review Entity, HIPMC-IRE-1 (7/00), as incorporated by reference in this administrative regulation;
2. Submit a fee with the application for certification as required by Section 5 of this administrative regulation, made payable to the Kentucky State Treasurer; and
3. Enclose with the application for certification, written documentation which supports compliance with the requirements of an independent review entity as established in 2000 Ky. Acts ch. 262, sec. 14(1) and this administrative regulation.
(3) An application for certification shall be submitted to the department at least ninety (90) days prior to expiration of the current certification.

Section 5. Fees. (1) Department fees:
(a) An application for certification as an independent review entity shall be accompanied by a fee to pay administrative costs as follows:
1. An applicant not accredited in accordance with 2000 Ky. Acts ch 262, sec. 1(7) shall pay an application fee in the amount of $500;
2. An applicant accredited in accordance with 2000 Ky. Acts ch. 262, sec. 1(7) shall pay an application fee in the amount of $250.
(b) A submission of changes in information included in the application to the department in accordance with 2000 Ky. Acts ch. 262, sec. 14(2), or any change in application information after certification, shall be accompanied by a fee of fifty (50) dollars.
(2) Independent review entity fees:
(a) The total fee charged for an external review shall not exceed $800 unless justification for a higher fee is demonstrated in the case of unusual or complicated circumstances; and
(b) The twenty-five (25) dollar filing fee to be paid by the covered person shall:
1. Be billed by the independent review entity upon assignment; or
2. Be waived if it creates a financial hardship in accordance with 2000 Ky. Acts ch. 262, sec. 12(5). The independent review entity shall accept the following as evidence of financial hardship:
   a. Gross income of the covered person below 200 percent of the federal poverty level based upon family size as shown by a federal income tax return for the previous year; or
   b. The covered person's participation in one (1) of the following programs:
      (i) National Prescription Drug Patient Assistance;
      (ii) Kentucky Transitional Assistance;
      (iii) Medicaid; or
      (iv) Unemployment Insurance;
   c. Not be assessed if an external review is conducted following the submission of new information in accordance with 2000 Ky. Acts ch. 262, sec. 12(6).

Section 6. Department Review of Application for Certification or Change to Information Provided on the Application. (1) Upon receipt of an application for certification or a change to information provided on the application, the department shall:
(a) Inform the applicant if supplemental information is or is not needed:
1. Applicant shall submit requested information within thirty (30) days;
or
2. If requested information is not provided to the department within thirty (30) days, the department shall:
   a. Deny the application for certification or the change to information provided on the application; and
   b. Not refund the applicable fee submitted in accordance with Section 5(1) of this administrative regulation.
(b) Review the application and information required by 2000 Ky. Acts ch. 262, sec. 14 and this administrative regulation;
(c) Make a determination whether a conflict of interest or an appearance of impropriety exists; and
(d) Approve or deny certification, or the change to information provided on the application, of an independent review entity within ninety (90) days;
(2) An independent review entity certificate shall expire on the second anniversary of the certification date unless it is renewed by submitting a new application for certification in accordance with Section 4(2) of this administrative regulation.

Section 7. Denial, Decertification, or Suspension Hearing Procedure. Upon the denial of certification, decertification, or suspension of a certification, the department shall give written notice of its action and advise the applicant or certificate holder that a request for a hearing may be filed in accordance with KRS 304.2-310.

Section 8. Independent Review Entity Complaint Process. (1) A copy of the complaint filed pursuant to 2000 Ky. Acts ch. 262, sec. 13(13) and a letter from the department requesting a written response to the complaint shall be sent to the independent review entity.
(2) The independent review entity shall respond in writing to the complaint and submit to the department within five (5) business days of receipt of the letter from the department the following:
(a) Any information relating to the complaint;
(b) Corrective actions to resolve the complaint, if any, including time frames for those actions; and
(c) A mechanism to evaluate the corrective action, if any.
(3) Upon receipt of the written response of the independent review entity, the department shall:
(a) Take action in accordance with 2000 Ky. Acts ch. 262, sec. 13(13); and
(b) Notify the complaint of action taken, if any.

Section 9. Department Investigations. The commissioner, may, upon his own action, conduct investigations of an independent review entity pursuant to KRS 304.2-100.

Section 10. Reporting Requirements. (1) An independent review entity shall, as a condition of certification, submit by March 31 of each
year for the previous calendar year, the following reports incorporated by reference in this administrative regulation:

(a) Data Reporting Requirements for Independent Review Entities, HIPMC-IRE-4 (7/00); and

(b) Annual Independent Review Entity Report Form, HIPMC-IRE-5 (7/00); and

(c) An insurer shall submit by March 31 of each year for the previous calendar year the Annual Internal Appeal and External Review Report Form, HIPMC-ER-1 (7/00), which is incorporated by reference in this administrative regulation.

Section 11. Cessation of Operations to Perform External Review.
(1) Upon a decision to cease external review operations in Kentucky, an independent review entity shall:
(a) Immediately notify the department in writing of its decision to cease accepting new assignments; and
(b) Submit the following to the department ninety (90) days prior to ceasing operations:
   1. Written notification of the cessation of operations, including the date of cessation and the number of pending external reviews with corresponding assignment dates; and
   2. A written action plan for ceasing operations, which shall be approved by the department and include:
      a. The projected date for rendering a decision for each external review which has not been acted upon; and
      b. The projected date of submission of the Data Reporting Requirements for Independent Review Entity, HIPMC-IRE-4 (7/00).

(2) Upon receipt of a written notification as required in subsection (1) of this section, the department shall review and act upon the action plan of the independent review entity.

(3) Upon approval of an action plan to cease operations by the department, the independent review entity shall send written notification to insurers of the date of cessation.

(4) Annual reports required pursuant to Section 10(1) of this administrative regulation shall be submitted to the department by an independent review entity prior to ceasing operations.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Application for Certification of an Independent Review Entity, HIPMC-IRE-1 (7/00);
(b) Assignment of Independent Review Entity Form, HIPMC-IRE-2 (7/00);
(c) External Review Decision Notification Form, HIPMC-IRE-3 (7/00);
(d) Data Reporting Requirements for Independent Review Entities, HIPMC-IRE-4 (7/00);
(e) Annual Independent Review Entity Report Form, HIPMC-IRE-5 (7/00); and
(f) Annual Internal Appeal and External Review Form, HIPMC-ER-1 (7/00).

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCOULD, Secretary

REGULATORY IMPACT ANALYSIS

Contact Person: Charlotte K. Hummel, Department of Insurance, 215 West Main Street, PO Box 517; Frankfort, Kentucky 40602.

(1) Type and number of entities affected: This administrative regulation will affect all insurers licensed to engage in health insurance activities in the state of Kentucky and independent review entities. Currently, there are 60 health insurers authorized by the department to engage in health insurance activities in this state, and an unknown number of independent review entities.

(2) Direct and indirect costs or savings on the:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
   1. First year following implementation: This administrative regulation establishes insurer requirements, procedures for the certification of independent review entities, and the process for initiating and conducting external review of utilization review decisions. It also establishes disclosure requirements of the external review process to be included in the health benefit plan issued at enrollment of the covered person. The department anticipates that there will be costs of compliance for the insurers. The insurers are required to pay for the external reviews and report to the department concerning external reviews. The insurers and independent review entities will be responsible for copying and delivery costs. However, the department also anticipates that insurers may save costs in the long run as medical necessity and coverage issues are able to be resolved at the external review level instead of through the legal litigation process.
   2. Second and subsequent years: Insurers will continue to incur costs arising from external reviews and reporting requirements. However, the department anticipates costs will be less in second and subsequent years, in that the initial setup costs of the external review program will primarily be incurred in the first year.

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
   1. First year: The department anticipates both direct and indirect costs on the administrative body as a result of this administrative regulation. The department will have additional costs in the amount of $87,000 as a result of employing additional staff, collecting and receiving external review filing information and handling complaints. The costs will be absorbed within the resources available to the department.
   2. Continuing costs or savings: The department anticipates additional costs in the amount of $79,000 the second year and thereafter. The department anticipates that costs will be somewhat less the second year and thereafter as the start-up costs will have been absorbed in the first year.
   3. Additional factors increasing or decreasing costs: In the second and subsequent years, the department anticipates there will be minimal, if any, start-up costs incurred.

(b) Reporting and paperwork requirements: The department will be required to review filings submitted pursuant to this administrative regulation and take action. In some instances, a hearing may be necessary.

(4) Assessment of anticipated effect on state and local revenues: The department does not anticipate that there will be any effect on state and local revenues caused by the implementation of this administrative regulation.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, or
(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: 2000 Ky. Acts ch. 262, sec. 15 requires the department to promulgate administrative regulations regarding the external review program. For this reason, no other alternatives were considered.

(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This regulation will facilitate consistent and efficient compliance with 2000 Ky. Act ch. 262, sec. 15 and provide a uniform method for certification of independent review entities and for initiating and conducting external review of utilization review decisions. Without this regulation, there
would be no uniform standards or guidelines for certification of independent review entities or for conducting external review of utilization decisions.

(b) State whether a detrimental effect on environment and public health would result if not implemented: If this administrative regulation were not implemented, there would not be a uniform method to certify independent review entities or to ensure consistent uniform process for conducting external review of utilization review decisions. Therefore, it is for the benefit of the public that the guidelines established by this administrative regulation are in place.

(c) If detrimental effect would result, explain detrimental effect: Without this regulation, there would be no uniform standards or guidelines for certification of independent review entities or for conducting external review of utilization decisions.

(3) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all health insurers authorized to engage in health insurance and all independent review agencies in the state of Kentucky.

STATEMENT OF EMERGENCY
806 KAR 17:300E

This emergency administrative regulation establishes the manner and form of required filings of sample copies of provider agreements. 806 KAR 17:300E relates to 2000 Ky. Acts ch. 500, sec. 1 which requires that the department promulgate administrative regulations regarding the manner and form of required filings of sample copies of provider agreements. The statute goes into effect on July 14, 2000. The need to promulgate this emergency administrative regulation is to establish these requirements. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Health Insurance Policy and Managed Care (Emergency)
806 KAR 17:300E. Provider agreement filing requirements.

RELATES TO: 2000 Ky. Acts ch. 500, sec. 1
STATUTORY AUTHORITY: KRS 304.2-110(1), 2000 Ky. Acts ch. 500, sec. 1
EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2000 Ky. Acts ch. 500, sec. 1, requires that the department promulgate administrative regulations regarding the manner and form of required filings of sample copies of provider agreements. This administrative regulation establishes those requirements.

Section 1. Definitions. (1) "Provider agreement" means a contract between a managed-care plan and a provider for the provision of health care services.

(2) "Risk sharing arrangement" is defined in 2000 Ky. Acts ch. 500, sec. 5(13).

(3) "Subcontract agreement" means a contract for the provision of health care services to an enrollee between:

(a) A provider who is a participating provider with a managed-care plan and a provider who is not a participating provider with a managed-care plan; or

(b) A risk-sharing entity as referenced in 2000 Ky. Acts ch. 500, sec. 5(13) and a provider.

Section 2. Filing Requirements. (1) A sample copy of the following shall be filed with the commissioner at least sixty (60) days before its intended use:

(a) Provider agreement;

(b) Risk sharing arrangement agreement, and

(c) Subcontract agreement.

(2) A filing shall include:

(a) A compensation arrangement; and

(b) Any attachment, exhibit, or addendum to the items listed in subsection (1) of this section.

(3) A filing submitted to the commissioner shall include the following:

(a) A completed and signed Face Sheet and Verification Form HIPMC-F1, incorporated by reference in this administrative regulation;

(b) A filing fee as follows:

1. Twenty-five (25) dollars for a provider agreement or subcontract agreement;

2. Fifty (50) dollars for a risk-sharing arrangement agreement.

(4) A filing required pursuant to subsection (1) of this section shall:

(a) Not be considered complete until all information required by this administrative regulation is received by the Department of Insurance;

(b) Be disapproved if a complete filing is not received within sixty (60) days of the date of filing.

(f) If a managed-care plan amends an existing provider agreement, risk-sharing arrangement agreement or subcontract agreement that was previously filed with the commissioner, affecting any requirements of this administrative regulation, the managed-care plan shall submit:

(a) An amended filing at least sixty (60) days before its intended use; and

(b) A letter that identifies and explains each amendment.

(g) The failure of a managed-care plan to file a sample copy of a provider agreement, risk-sharing arrangement, or subcontract agreement, as required by subsection (1) of this section, may result in imposition of a civil penalty in accordance with KRS 304.99.

Section 3. Provider Agreement Requirements. A sample copy of a provider agreement filed with the commissioner shall:

(1) Comply with the requirements of 2000 Ky. Acts ch. 500, sec. 1(1); and

(2) Comply with the requirements of 2000 Ky. Acts ch. 436, sec. 15;

(3) Be governed by Kentucky law; and

(4) Not include the following provisions:

(a) A most-favored nation provision in accordance with KRS 304.17A -560;

(b) A limitation on disclosure provision in accordance with KRS 304.17 A -530;

(c) A condition of participation provision in accordance with 2000 Ky. Acts ch. 468, sec. 1(4); or

(d) A mandatory use of hospitalist provision in accordance with 2000 Ky. Acts ch. 476, sec. 24(2).

Section 4. Subcontract Agreement Requirements. A sample copy of a subcontract agreement that is part of a provider agreement or risk-sharing arrangement shall:

(1) Be filed with the commissioner by the managed-care plan in conjunction with the provider agreement or risk-sharing arrangement; and

(2) Meet the requirements of Section 3(1) of this administrative regulation.

Section 5. Risk Sharing Arrangement Requirements. A sample copy of a risk-sharing arrangement filing shall:

(1) Meet the requirements of Section 3(1) of this administrative regulation;

(2) Include a Risk Sharing Arrangement Information Sheet HIPMC-F1, incorporated by reference in this administrative regulation; and

(3) Have an annual Risk Sharing Arrangement Information Sheet.
HIPMC-R1 filed before September 1 of each calendar year.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:
   (a) Face Sheet and Verification Form HIPMC-F1, (7/00); and
   (b) Risk Sharing Arrangement Information Sheet HIPMC-R1, (7/00).
(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Char Hummel, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517.

(1) Type and number of entities affected: This administrative regulation will affect all managed-care plans licensed to engage in managed-care activities in the state of Kentucky. Currently, there are 13 managed-care plans authorized by the department to engage in managed-care activities in this state.

(2) Direct and indirect costs or savings on the:
   (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
   (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.
   (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition for the):
      1. First year following implementation: 2000 Ky. Acts ch. 500, sec. 1 requires that the department promulgate administrative regulations regarding the manner and form of required filings of sample copies of provider agreements. This administrative regulation establishes those requirements. Because filings do require a fee, the department anticipates there will be some cost on all managed-care plans, which will vary depending on the number of filings.
      2. Second and subsequent years: The department anticipates that the cost will be less in second and subsequent years because only new or revised agreements will be required to be filed with the department, as all others will be on file pursuant to this administrative regulation.
   (3) Effects on the promulgating administrative body:
      (a) Direct and indirect costs or savings:
         1. First year: The department anticipates some additional costs in personnel time in the administration of this regulation. The department anticipates that the costs will be absorbed within the resources available to the department.
         2. Continuing costs or savings: Same as in the first year.
         3. Additional factors increasing or decreasing costs: None.
      (b) Reporting and paperwork requirements: None.
   (4) Assessment of anticipated effect on state and local revenues:
      None.
   (5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.
   (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
      (a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.
      (b) Kentucky: The department has received no public comments regarding this issue.
   (7) Assessment of alternative methods; reasons why alternatives were rejected: 2000 Ky. Acts ch. 500, sec 1, requires the department to promulgate administrative regulations regarding the manner and form of required filings of sample copies of provider agreements. For this reason, no other alternatives were considered.
   (8) Assessment of expected benefits:
      (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.
      (b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.
      (c) If detrimental effect would result, explain detrimental effect: None.
   (9) Identify any statute, administrative regulation or government policy which may be in conflict or overlapping, or duplication:
      None.
      (a) Necessity of proposed regulation if in conflict:
      (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
      (10) Any additional information or comments:
      (11) TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all managed-care plans authorized to engage in managed-care activities in the state of Kentucky.

STATEMENT OF EMERGENCY
806 KAR 38:020E

This emergency administrative regulation amends 806 KAR 38:020. HB 875 became effective on July 14, 2000. This bill relates to agent licensing and the reform thereof. The changes in this bill require the department to take immediate measures toward the implementation of its components. HB 875 changes categories of licenses and procedures for obtaining them. Health maintenance organization licenses fall into this area of change, requiring this amendment in order to implement HB 875. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
RONALD B. MCCLOUD, Secretary
GEORGE NICHOLS III, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 38:020E. Health maintenance organization agent license.

RELATES TO: KRS 304.38-110
STATUTORY AUTHORITY: KRS 304.38-110, 304.38-150
EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.38-110 provides that the commissioner shall promulgate [rules and] administrative regulations necessary for licensure of a health maintenance organization agent and the termination or revocation of this license. KRS 304.38-150 further provides that the commissioner may promulgate administrative regulations that are necessary to properly administer this license. This administrative regulation provides that agents for health maintenance organization agents be licensed and regulated as health agents subject to Subtitle 9 to be consistent with 2000 Ky. Acts ch. 353 effective as of July 24, 2000. [This administrative regulation sets forth basic procedures to acquire and to keep an agents' license.]

Section 1. Any person who acts as an agent for a health maintenance organization shall be licensed as a health agent in accordance with the requirements of KRS Chapter 304. Subtitle 9 and any applicable administrative regulations.

Section 2. Any person who acts as an agent for a health maintenance organization shall be subject to all provisions of KRS Chapter 304 and related administrative regulations that apply to health agents.
solicitation or enrollment of persons in a health maintenance organization:

(2) "Profit or pecuniary gain" as used in this section means any type of compensation that a person receives from the health maintenance organization for which the solicitation or enrollment of members is made.

Section 2. To qualify for an agent's license, an applicant shall:

(1) Be above the age of eighteen (18) years;

(2) Be competent, trustworthy, and of good reputation;

(3) Be financially responsible and demonstrate financial responsibility as provided in KRS 394.5-105(9);

(4) Pass any written examination required for the license under KRS Chapter 394, Subtitle 38; except when the applicant is a nonresident of the State of Kentucky, the applicant shall provide evidence that he or she holds a license issued by the Commissioner or a similar certification from the home state that the applicant is licensed in good standing as an agent for health insurance or health maintenance organizations;

(5) Be appointed as an agent by one (1) or more corporations subject to the provisions of KRS Chapter 394, Subtitle 38;

(6) Make application to the commissioner in the manner and form prescribed by him;

(7) Pay the fee provided in KRS 394.4-010;

(8) Successfully complete specific courses of instruction in the field of insurance as prescribed and approved by the commissioner for the license when initially issued. These courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for such purpose and the successful completion of which shall be certified to the commissioner; or

(9) Agents who hold licenses issued on or after July 1, 1994, shall be subject to continuing education requirements as specified in KRS 394.9-295 subsections (4) through (10) and 606 KAR 9:220.

Section 3. Agents' licenses shall expire as of 12:01 a.m. on the first day of April, 1993, and biennially thereafter, unless the licensee prior thereto has filed with the commissioner, on forms prescribed and furnished by him, a request for continuation of license. The request must be accompanied by payment of the renewal fee as provided in KRS 394.4-010. However, any request for continuation received by the commissioner after such April 1st and prior to the next following June 30 may be accepted and effectuated by the commissioner if accompanied by a penalty as provided in KRS 394.5-165.

Section 4. (1) Each corporation qualified under KRS Chapter 394, Subtitle 38 appointing an agent shall notify the commissioner by filing written notice in duplicate with the commissioner on forms prescribed and furnished by him; and shall pay the fee as provided in KRS 394.4-010. If the agent is then licensed, or as soon as licensed, the commissioner shall mail the appointment certificate to the corporation.

(2) Each appointment shall continue in force until:

(a) The commissioner notifies the corporation that the agent's license is suspended or revoked;

(b) The appointment is terminated by the corporation by written notice of termination filed with the commissioner;

(c) The corporation fails to renew the appointment.

Section 5. The commissioner may suspend, revoke, or refuse to renew any license issued under this administrative regulation, for any of the following causes:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;

(2) If the licensee willfully violates or knowingly participates in the violation of any provision of KRS Chapter 394, Subtitle 38 or this administrative regulation;

(3) If the licensee obtains or attempts to obtain a license through willful misrepresentation or fraud, or fails to pass any examination required under KRS Chapter 394, Subtitle 38;

(4) If the licensee is convicted, by final judgment, of a felony involving moral turpitude;

(5) If in the conduct of his affairs under the license, the licensee has shown himself to be, and is deemed by the commissioner to be, incompetent or untrustworthy;

(6) If the licensee exercises powers outside the scope of his license;

(7) If the licensee commits any violation of the provisions of KRS Chapter 394 or any administrative regulation of the commissioner as made applicable to him.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 12, 2000 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Vicky Horn, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517.

(1) Type and number of entities affected: All persons or entities holding health maintenance organization licenses from the Department of Insurance.

(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 comment has been received, no impact is anticipated.

(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 comment has been received, no increase in cost is anticipated.

(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:

(b) Reporting and paperwork requirements: No change.

(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: Budget of the Department of Insurance.

(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 comment has been received, no impact is anticipated.

(b) Kentucky: No public comment has been received, no impact is anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were discussed.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No impact on environmental or public health is anticipated.

(c) If detrimental effect would result, explain detrimental effect: None.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflicts are present.

(10) Any additional information or comments: None.

11 Tiering: Is tiering applied? Tiering does not apply because this regulation applies to all health maintenance organization agents licensed in the Commonwealth.
STATEMENT OF EMERGENCY
901 KAR 5:050E

The administrative regulation 901 KAR 5:050E, establishes requirements to set in administrative regulation the fee charged for the searching of records and the delivery of a certified copy of a birth certificate according to HB 202 which was passed in the 2000 session of the General Assembly. This administrative regulation is needed to comply with Kentucky Revised Statutes and HB 202 passed in the 2000 session of the General Assembly. This legislation amended KRS 213.141 by raising the fee charged for certified copies of birth certificates. This administrative regulation is filed as an emergency regulation as required under KRS 13A.190 in order to "Meet a deadline for the promulgation of an administrative regulation that is established by state law." It must also be implemented immediately in order to collect fees as prescribed in HB 202. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

Cabinet for Health Services
Department for Public Health
Division of Epidemiology and Health Planning
(Emergency Amendment)

901 KAR 5:050E. Fees for searches, certified copies of certificates and records.

RELATES TO: KRS 213.141
EFFECTIVE: July 12, 2000
NECESSITY, FUNCTION, AND CONFORMITY: KRS 213.141 directs the Cabinet for Health Services [Human Resources] to set a reasonable fee by administrative regulation for searches or for copies of the record of any birth, death, marriage or divorce.

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

<table>
<thead>
<tr>
<th>RECORD</th>
<th>RECORD SEARCH AND CERTIFIED COPY</th>
<th>RECORD SEARCH AND NO COPY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death</td>
<td>$5.00</td>
<td>$5.00</td>
</tr>
<tr>
<td>Marriage</td>
<td>$5.00</td>
<td>$5.00</td>
</tr>
<tr>
<td>Divorce</td>
<td>$5.00</td>
<td>$5.00</td>
</tr>
<tr>
<td>Birth</td>
<td>$10.00 [7-99]</td>
<td>$10.00 [7-99]</td>
</tr>
</tbody>
</table>

RICE C. LEACH, M.D., Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 12, 2000 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandy Davis (502) 564-4212
(1) Type and number of entities affected: All individuals obtaining Kentucky birth certificates.
(2) Direct and indirect costs or savings to those affected:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments have been received. A public hearing to receive comments has been scheduled.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments have been received. A public hearing to receive comments has been scheduled.
(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: The regulation will increase by $1 the current fee charged by Vital Statistics for Birth Certificates. This is estimated to bring in $200,000 of new funds the first year. These funds are to be used for the implementation of HB 202. HB 202 requires DPH to provide prescribed nutrition for those with inherited metabolic diseases.
   2. Continuing costs or savings: There will be continuing revenues of approximately $200,000 a year based on this regulation which will continue to be used to implement HB 202.
   3. Additional factors increasing or decreasing costs: Depending on the number of birth certificates requested, this amount may be higher or lower.
(b) Reporting and paperwork requirements: None
(4) Assessment of anticipated effect on state and local revenues: Revenues will increase by $1 for each birth certificate obtained.
(5) Source if revenue to be used for implementation and enforcement of administrative regulation: Individuals of the general public obtaining copies of birth certificates.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation:
   (a) Geographical area in which administrative regulation will be implemented: No public comments have been received. A public hearing to receive comments has been scheduled.
   (b) Kentucky: No public comments have been received. A public hearing to receive comments has been scheduled.
(7) Assessment of alternative methods; reasons why alternatives were rejected: no alternatives have been identified. This change was mandated by the 2000 General Assembly.
(8) Assessment of expected benefits:
   (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Raising the cost of obtaining a birth certificate will allow for prescribed nutrition to be provided for those with inherited metabolic diseases.
   (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: Without the increased revenue from the raising of the birth certificate fees, those individuals with inherited metabolic disorders could not be provided with the prescribed nutrition that they need to prevent mental disorders.
(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication:
   (a) Necessity of proposed regulation if in conflict: No conflicting regulations or policies
   (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. Fees apply to all persons obtaining birth certificates or birth certificate record searches.

STATEMENT OF EMERGENCY
902 KAR 4:120E

The administrative regulation 902 KAR 4:120E establishes requirements for eligibility criteria, services, provider qualifications and hearing rights for participants of the Health Access Nurturing Development Services (HANDS) Program. This action must be taken on an emergency basis to comply with 2000 Ky. Acts ch. 549 and KRS 211.690 in order to implement the program in July 2000 and reimburse providers for services, as well as maximizing federal funding. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary
CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(Emergency)

902 KAR 4:120E. Health Access Nurturing Development Services (HANDS) Program.

RELATES TO: KRS Chapter 211
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 211.690
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.690
authorizes the Cabinet for Health Services to implement a voluntary statewide home visitation program for the purpose of providing assistance to at-risk parents during the prenatal period until the child's third birthday. This administrative regulation establishes the eligibility criteria, services, provider qualifications and hearing rights for participants of the Health Access Nurturing Development Services (HANDS) Program.

Section 1. Definitions. (1) "HANDS" means Health Access Nurturing Development Services, a voluntary statewide home visitation program, for the purpose of providing assistance to at-risk parents during the prenatal period until the child's third birthday. (2) "Authority" means the Early Childhood Development Authority as established in KRS 200.700. (3) "Provider" means a local agency subscribing to staff and training requirements, program model and reporting requirements of the HANDS Program and agreeing to participate as a HANDS provider. (4) "Program model" means a model of home visitation that meets the twelve (12) critical elements of home visitation. (5) "Participant" means an individual who meets the criteria established in Section 2 of this administrative regulation. (6) "Standardized assessment tool" means the program adopted tool to determine the level of burden or need of the pregnant woman or parent for the program. (7) "Department" means the Department for Public Health or its designated representative. (8) "Home visitor" or "family support worker" (FSW) means a: (a) Person who has a high school diploma or GED, is eighteen (18) years of age or older, and has received training in screening, ongoing assessment of family strengths and needs, service plan development, home visiting, coordination of services and evaluation. The FSW shall be supervised by a public health nurse or licensed social worker; (b) Public health nurse who has a valid Kentucky Board of Nursing license as a registered nurse or advanced registered nurse practitioner; or (c) Licensed social worker who meets the requirements for licensure by the State Board of Examiners of Social Work; 2. An individual with a masters degree in social work; or 3. A social worker with a bachelor's degree in social work from an accredited institution.

Section 2. Eligibility Criteria. (1) In order to receive a service established in Section 4 of this administrative regulation, an individual shall be: (a) A pregnant woman who has not reached her 20th birthday and whom is a first-time parent; (b) A pregnant woman who is at least twenty (20) years old, will be a first-time parent and a risk is deemed likely for the pregnancy or the infant; (c) An infant or toddler up to his third birthday of an individual identified in paragraphs (a) or (b) of this subsection; (d) A firstborn to up to twelve (12) weeks of age whose family is determined to have risk; (e) A first-time father or guardian of a child identified in paragraph (c) or (d) of this subsection. (2) Participation in the HANDS Program shall be voluntary. (3) Participation in the HANDS Program shall be terminated if one of the following occurs: (a) Death of the fetus; (b) The family elects to withdraw from the program; (c) The family moves out of state; (d) Contact with the family is lost; (e) The family repeatedly fails to participate in program activities; (f) Death of the infant; or (g) The goals established for the family are met.

Section 3. Provider Qualifications. (1) A HANDS service shall be provided by a local health department or a subcontractor. (2) A local health department shall meet the requirements to provide HANDS services if: (a) Its staff or contractor receives training provided by the department; (b) It assures that appropriate staff meet the licensure requirements of the department pursuant to Section 1(8)(b) or (c) of this administrative regulation; (c) It assures supervision by licensed personnel pursuant to Section 1(8)(b) and (c) of this administrative regulation; (d) It reports program data on a schedule as directed by the department; and (e) It meets the twelve (12) critical elements of home visitation programs.

Section 4. Services: The HANDS Program shall consist of the following services: (1) Screening. A screening shall include the following components: (a) Using the standardized screening tool, a provider; 1. Shall conduct a face-to-face interview with an individual identified in Section 2 of this administrative regulation in order to evaluate his eligibility for HANDS services; or 2. Shall use a health record in order to conduct an evaluation of an individual identified in Section 2 of this administrative regulation in order to determine his eligibility for HANDS services; (b) If an individual's screening indicates that he is eligible for additional HANDS services, he shall be referred for an assessment to a social worker or a registered nurse, employed directly or contracted by the department; and (c) If an individual's screening indicates that he is ineligible for additional HANDS services, he shall be provided with community resource and referral information. (2) Assessment. (a) An assessment shall consist of the following components: 1. A comprehensive needs assessment, which shall be obtained by conducting a face-to-face interview with the child, mother, and family. This assessment shall include information regarding the parent's: a. Childhood experience; b. Lifestyle behaviors and mental health; c. Experience and expectations for parenting; d. Coping skills; e. Support system; f. Stress and anger management skills; g. Expectations of the infant's developmental milestones and behaviors; h. Plans for the child's discipline; i. Perception of the new infant; and j. Bonding and attachment to the infant. 2. Arrangement for the delivery of the services determined to be needed as identified in the assessment; (b) An assessment shall be conducted by a social worker or a registered nurse; and (c) If an assessment of an individual results in a determination that the individual meets one (1) of the criteria in Section 2(3) of this administrative regulation, home visitation services established in subsection (3) of this section shall not be provided; (3) Home visitation may take place in the client's home or another community site if justified in the record. A home visitation shall include the following: (a) Monitoring of the child's, mother's, and family's progress by: 1. Making referrals to community resources; 2. Tracking appointments to ensure they are being kept; 3. Performing follow-up services as identified by the provider; or 4. Performing periodic evaluations of the participant's changing needs; (b) The preparation and maintenance of case records which shall
be documented with contacts, services needed, reports, and progress;  
(c) Consultations; and  
(d) Crisis assistance;  
(4) Service frequency shall be provided in accordance with the  
level of need of the parent or family;  
(5) The frequency of visitation shall be lessened as the family  
meets goals agreed to by the provider and the participant; and  
(5) Between the second and third birthday, home visitation serv-  
ices shall be limited to a child whose family does not progress beyond  
Level I of the assessment tool.  

Section 5. Appeal Rights. (1) A provider shall notify an individual  
who does not meet criteria for admission or continuation in the pro-  
gram or who has had a service discontinued, in writing, within ten (10)  
days of the denial or discontinuance.  
(2) If an individual wishes to appeal an adverse action by the  
agency, within thirty (30) days of the date of the notice identified in  
subsection (1) of this section, he shall notify the department that he  
wishes to request a hearing.  
(3) Notice of an administrative hearing shall be provided in accor-  
dance with KRS 13B.050.  
(4) The administrative hearing process shall be conducted in ac-  
cordance with KRS 13B.080 through 13B.160.  

Section 6. Incorporation by Reference. (1) The following material is  
incorporated by reference:  
(a) Twelve (12) Critical Elements of Home Visitation Programs;  
(b) Referral Record Screen Consent Form (ACH-301), 7/00 edi- 
tion;  
(c) HANDS Screening Tool, 5/1/00 edition; and  
(d) HANDS Assessment Tool, 5/1/00 edition.  
(2) This material may be inspected, copied, or obtained, subject to  
applicable copyright law, at the Department for Public Health, first  
floor, Health Services Building, 275 East Main Street, Frankfort, Ken- 
tucky, 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: July 13, 2000  
FILED WITH LRC: July 13, 2000 at 2 p.m.  

REGULATORY IMPACT ANALYSIS  
Agency Contact Person: Curt Rowe  
(1) Type and number of entities affected: Approximately 4,000 first  
time families in 46 counties in Kentucky with home visitation services.  
(2) Direct and indirect costs or savings to those affected:  
(a) Cost of living and employment in the geographical area in  
which the administrative regulation will be implemented, to the extent  
available from the public comment received: No comments have been  
received. A Notice of Intent public hearing will be held in accordance  
with KRS Chapter 13A.  
(b) Cost of doing business in the geographical area in which the  
administrative regulation will be implemented, to the extent available  
from the public comment received: No comments have been received.  
A Notice of Intent public hearing will be held in accordance with KRS  
13A.  
(c) Compliance reporting, and paperwork requirements, including  
factors increasing or decreasing costs (note any effects upon competi- 
tion) for the:  
1. First year following implementation: There will be a reimburs- 
able "cost of doing business" in each year of operation.  
2. Second and subsequent years: Same as above.  
(3) Effects on the promulgating administrative body:  
(a) Direct and indirect costs or savings:  
1. First year: The department anticipates $8.5 million in additional  
funds in FY2001. ($2.9 million in Medicaid funds and $5.5 million in  
tobacco settlement funds).  
2. Continuing costs or savings: In FY 2002, the funding included in  
the enacted budget totals $15 million. ($5.5 million in Medicaid funds  
and $9.5 million in tobacco settlement funds).  
3. Additional factors increasing or decreasing costs: Due to these  
services being provided on a fee-for-service basis, the level of out-  
reach and utilization may result in the cost of providing these services  
to be higher or lower than the enacted budget allowed for.  
(b) Reporting and paperwork requirements: It is anticipated that  
paperwork and reporting requirements will be addressed through  
systems now in place.  
(4) Assessment of anticipated effect on state and local revenues:  
Additional state and local tax monies will be available from salaries  
paid for the provision of services.  
(5) Source if revenue to be used for implementation and enforce- 
ment of administrative regulation: State tobacco settlement funds and  
Medicaid 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: Statewide.  
(b) Kentucky: Same as above.  
(7) Assessment of alternative methods; reasons why alternatives  
were rejected: No current alternatives to home visitation for pregnant  
women and infants/toddlers exist.  
(8) Assessment of expected benefits:  
(a) Identify effects on public health and environmental welfare of  
the geographical area in which implemented and on Kentucky: Antici- 
pated short term and long term effects include a reduction in infant  
mortality, early entry into prenatal care, a reduction in premature in- 
fants; establishment of a medical home, a decrease in child abuse and  
eglect.  
(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 failure to achieve improvements in prematurity rates, low birth  
weight rates, reduction in infant mortality and reduction in child abuse  
and neglect.  
(9) Identify any statute, administrative regulation or governmental  
policy which may be in conflict, overlapping, or duplication: None  
known.  
(a) Necessity of proposed regulation if in conflict: NA  
(b) If in conflict, was effort made to harmonize the proposed ad- 
mnistrative regulation with conflicting provisions: NA  
(10) Any additional information or comments:  
(11) TIERING: Is tiering applied? No. Tiering was not applied as  
services are voluntary and available to all first time families, based on  
need for the service.  

STATEMENT OF EMERGENCY  
9X7 KAR 1:013E  

This emergency administrative regulation is being promulgated in  
accordance with provisions of 42 USC 1396a, b, and d, to adjust the  
payments made for inpatient hospital services for those hospitals who  
served the disproportionate share of low income patients, to comply with  
It establishes the critical access hospital reimbursement methodology  
and implements the inpatient hospital services reimbursement meth- 
oodology for the rate year beginning July 2000. In addition, this  
administrative regulation is prepared as an emergency regulation to comply with  
the emergency provisions of SB 305 and SB 339 of the 2000  
General Assembly. This action must be taken on an emergency basis  
to ensure timely implementation of enacted legislation in accordance with  
KRS 13A.190(1)(a)(ii). This emergency administrative regulation differs from the emergency administrative regulation on the same  
subject matter that was filed on March 23, 2000 as follows: it estab- 
lishes the reimbursement methodology for inpatient hospital services  
for the July 2000 rate year. The July 2000 rate year will incorporate a  
two and eight-tenths (2.8) percent rate increase. Additionally, this  
emergency administrative regulation establishes payment for critical  
access hospital services. This emergency administrative regulation  
shall be replaced by an ordinary administrative regulation filed with the  
Regulations Compiler.  

PAUL E. PATTON, Governor  
JIMMY D. HELTON, Secretary
VOLUME 27, NUMBER 2 – AUGUST 1, 2000
CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(Emergency Amendment)

907 KAR 1:013E. Payments for hospital inpatient services.

EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. [Executive Order 96-662, 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 a requirement that may be imposed by opportunity presented by federal law for the provision of medical assistance to Kentucky’s indigent citizenry. This administrative regulation establishes the method for determining the amount payable by the Medicaid Program for a hospital inpatient service.

Section 1. Definitions. (1) “Acute care hospital” means a hospital licensed and certified to provide acute care hospital services in accordance with 902 KAR 1:013E.
(2) “Base year” means the cost reporting period upon which a rate is based.
(3) “Capital costs” means capital related expenses including insurance, taxes, interest, and depreciation related to plant and equipment.
(4) “Critical access hospital” means a hospital meeting the licensure requirements established in 906 KAR 1:110.
(5) “Department” means the Department for Medicaid Services or its agent.
(6) “Disproportionate share hospital” (DSH) means a hospital that: (a) Has an inpatient Medicaid utilization rate of one (1) percent or higher; and (b) Meets the criteria established in 42 USC 1396s(4)(d).
(7) “DRF” means Data Resources, Incorporated.
(8) “Indexing factor” means the amount that the cost of providing a service is expected to increase during the universal rate year.
(9) “Indigent care” means hospital charges attributable to uninsured individuals with income limits in accordance with 2000 Ky. Acts ch. 310 and shall not include unauthorized charges attributable to Medicaid patients.
(10) “Inflation factor” means the amount that the cost of providing a service has increased, or is expected to increase, for a specific period of time.
(11) “Pediatric teaching hospital” is defined in KRS 205.565.
(12) “Professional component cost” means a physician compensation cost paid by the provider for a service to a patient and includes the following categories of practice:
(a) Anesthesiology;
(b) Cardiology;
(c) Electromyoneurography;
(d) Pathology;
(e) Radiology; and
(f) Psychiatry in a psychiatric hospital only.
(13) “Psychiatric hospital” means a hospital which meets the licensure requirements as established in 902 KAR 20:180.
(14) “Rate” means the methodology of establishing a reimbursement rate by multiplying an existing rate by a percent of increase as specified in Section 3 of this administrative regulation.
(15) “Rehabilitation hospital” means a hospital meeting the licensure requirements as established in 902 KAR 20:240.
(16) “Resource” means cash or an asset readily convertable to cash including a checking account, savings account, stock, bond, mutual fund, certificate of deposit, money market account, or similar financial instrument.
(17) “State university teaching hospital” means:
(a) A hospital which is owned or operated by a Kentucky state-supported university with a medical school; or
(b) A hospital in which three (3) or more departments or major divisions of the University of Kentucky or University of Louisville medical school are physically located and which are used by the university or college (or one of its fifty (50) percent medical programs) for the medical students at the University of Kentucky or the University of Louisville; however, this shall not include a hospital possessing only a residency program or rotation agreement.
(18) “Trendline factor” means the inflation factor as applied to that period of time between a facility’s base fiscal year end and the beginning of the universal rate year.
(19) “Type I hospital” means an in-state disproportionate share hospital with 100 beds or less that participate in the Medicaid Program.
(20) “Type II hospital” means an in-state disproportionate share hospital with 101 beds or more that participate in the Medicaid Program, except for a hospital that meets the criteria established in this administrative regulation for a Type III or Type IV hospital.
(21) “Type III hospital” means an in-state disproportionate share state university teaching hospital and operated by either the University of Kentucky or the University of Louisville Medical School.
(22) “Type IV hospital” means an in-state disproportionate share hospital participating in the Medicaid Program that is a state-owned psychiatric hospital.
(23) “Universal rate year” means the twelve (12) month period under the prospective payment system beginning July of each year, for which payment rates are established for a hospital regardless of the hospital’s fiscal year end.
(24) “Upper payment limit” means the maximum amount the Medicaid Program shall pay for an inpatient day of care with the maximum varying based on specified circumstances as follows:
(a) Utilization factors;
(b) Teaching hospital status; and
(c) Age of patient.
(25) “Weighted median” means the cost per diem associated with the median point of cumulative inpatient days calculated by arraying cost per diems within a specified peer group from lowest to highest.

Section 2. Reimbursement for Inpatient Hospital Services. (1) The department shall reimburse inpatient hospital services provided to eligible Medicaid recipients through the use of a rate that meets the requirements of 42 USC 1395f(l)(l)
(2) Excluding critical access hospitals, reimbursement for inpatient hospital services shall be fully prospective.

Section 3. Acute Care Hospital and Rehabilitation Hospital Inpatient Services. (1) The reimbursement rate for an acute care and rehabilitation hospital for the rate year beginning July 2000 shall be determined by utilizing a rate methodology as follows:
(a) The department shall utilize a hospital’s June 30, 2000 per diem rate that includes operating, professional and capital cost components; and
(b) The per diem rate shall be multiplied by the rate of increase of two and eight-tenths (2.8) percent; and
(2) Additional payments for children under age six (6) shall be made in accordance with Section 14 of this administrative regulation.
(3) Payment for the following transplants shall be made in accordance with Section 3 of this administrative regulation:
(a) Kidney;
(b) Cornea;
(c) Pancreas; and
(d) Kidney and pancreas.
(4) Payment for a transplant not listed in subsection (3) of this section shall be made in accordance with 907 KAR 1:350; and
(5) Payment for a federally-defined hospital swing bed shall be made in accordance with 907 KAR 1:025.

Section 4. Psychiatric Hospital Inpatient Services. (1) The Department for Medicaid Services shall pay for inpatient psychiatric hospital services provided to an eligible Medicaid recipient in a psychiatric hospital by multiplying the hospital’s per diem rate by the number of
allowed patient days;

(2) The per diem rate for psychiatric hospitals for the universal rate year beginning on or after July 2000 shall be determined by the department in accordance with Sections 6 through 13 of this administrative regulation; and

(3) Additional payments for children under age six (6) shall be made in accordance with Section 14 of this administrative regulation.

Section 5. Critical Access Hospitals. (1) The department shall establish a per diem rate that recognizes the allowable reasonable costs of a critical access hospital and the per diem rate shall include:

(a) Operating;
(b) Professional; and
(c) Capital cost components;

(2) Reimbursement for inpatient critical access hospital services shall be determined by multiplying the per diem rate by the number of allowed patient days;

(3) Until a cost report is available, a licensed and certified critical access hospital shall have an interim rate determined by the department through the use of an operating budget, capital budget, and projected patient days that shall be submitted by the hospital to the department within thirty (30) days of receiving certification as a critical access hospital;

(4) A prospective per diem rate shall be established by the department which shall include:

(a) An operating component that shall be determined by dividing projected operating costs by the number of projected patient days; and
(b) A capital cost component that shall be determined by dividing projected inpatient capital costs by the number of projected inpatient days;

(5) Until an audited cost report is available, the operating per diem rate may be adjusted if requested by the provider, and justified by the submittal of additional information; and

(6) Once an audited cost report that contains twelve (12) full months of audited data becomes available, a per diem rate shall be established according to Sections 6 through 13 of this administrative regulation with a year-end settlement to actual cost.

Section 6. Use of A Prospective Rate. (1) A hospital including a critical access hospital, shall be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days;

(2) An allowable Medicaid cost shall:

(a) Be a cost allowed after a Medicare audit;
(b) Be in accordance with 42 CFR 412 and 413;
(c) Include costs listed in Section 13(14)(c) and (d) of this administrative regulation or Section 106 of the Medicaid Reimbursement Manual for Inpatient Hospital Services; and

(3) The most recent Medicaid cost report available as of May 1 preceding the current universal rate year shall:

(a) Be the basis of the prospective payment; and
(b) Establish the base year;

(4) The prospective rate shall include both routine and ancillary costs;

(5) The prospective rate shall not be subject to retroactive adjustment, except for:

(a) A critical access hospital; or
(b) A facility with a rate based on unaudited data;

(6) A facility listed in subsection (5)(a) and (b) of this section shall have its rate revised by the department for the universal rate year when the audited cost report for the base year becomes available to the department;

(7) Total Medicaid payments shall not exceed total customary charges in accordance with 42 CFR 447.271; and

(8) An overpayment shall be recouped by the department as follows:

(a) The provider owes an overpayment shall submit the amount of the overpayment to the department; or
(b) The department shall withhold the overpayment amount from a future Medicaid payment due the provider.

Section 7. Use of a Universal Rate Year. (1) A universal rate year shall be established as July through June 30 of each year to coincide with the state fiscal year; and

(2) A hospital shall not be required to change its fiscal year to conform with a universal rate year.

Section 8. Trending of a Cost Report. The following policies shall be used for the trending of a cost report:

(1) An allowable Medicaid cost, excluding capital cost, as shown in a cost report on file in the department, both audited and unaudited, shall be trended to the beginning of the universal rate year to update a hospital’s Medicaid cost; and

(2) The trending factor to be used shall be the inflation factor prepared by DHQ for the period being trended.

Section 9. Indexing for Inflation. (1) After an allowable Medicaid cost has been trended to the beginning of the universal rate year, an indexing factor shall be applied to project inflationary cost in the universal rate year; and

(2) The indexing factor to be applied shall be the inflation factor prepared by DHQ for the universal rate year.

Section 10. Peer Grouping. For rate setting purposes, a hospital shall be grouped with other hospitals as follows:

(1) Peer groupings shall be based on the number of beds licensed as of May 1 preceding the universal rate year;

(2) Peer groupings shall be:

(a) Zero to fifty (50) beds;
(b) Fifty-one (51) to 100 beds;
(c) 101-200 beds;
(d) 201-400 beds; and
(e) 401 beds or more;

(3) A type III hospital shall not be included in the array for a facility with 401 beds or more but shall be subject to the upper limit for a facility with 401 beds or more;

(4) A psychiatric hospital shall not be peer grouped but shall be in a separate array of psychiatric hospitals;

(5) A rehabilitation hospital, an acute care hospital that is restricted to providing rehabilitation services, and a critical access hospital shall not be:

(a) Peer grouped;
(b) Arrayed; or
(c) Subject to the operating cost upper limit.

Section 11. Minimum Occupancy Factor. (1) If a hospital’s minimum occupancy is not met, allowable Medicaid capital costs shall be reduced by:

(a) Artificially increasing the occupancy factor to the minimum factor; and
(b) Calculating the capital costs using the calculated minimum occupancy factor and

(2) The following minimum occupancy factors shall apply:

(a) A sixty (60) percent minimum occupancy factor shall apply to a hospital with 100 or fewer beds;
(b) A seventy-five (75) percent minimum occupancy factor shall apply to a hospital with 101 or more beds; and
(c) A newly constructed hospital shall be allowed one (1) full universal rate year before the minimum occupancy factor shall be applied.

Section 12. Reduced Depreciation Allowance. A reduced depreciation allowance shall be applicable as follows:

(1) The allowable amount for depreciation on hospital building and fixtures, excluding major movable equipment, shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital’s cost reports; and

(2) The use of a reduced depreciation allowance shall not be applicable to a psychiatric hospital or a critical access hospital.

Section 13. Upper Limits and Payment Principles. Upper limits and payment principles shall apply to a hospital as follows:

(1) An acute care hospital with 101 beds or more shall have an upper limit established on allowable Medicaid costs (except Medicaid capital costs and professional component costs) at the weighted median per diem cost for the hospital’s peer group;

(2) An acute care hospital with 100 beds or less shall have the upper limit on allowable Medicaid costs (except Medicaid capital costs
and professional component costs) established at 110 percent of the weighted median per diem for a hospital in its peer group;

(3) An acute care hospital with Medicaid utilization of twenty (20) percent or higher, or a hospital having twenty-five (25) percent or more nursery days resulting from Medicaid-covered deliveries as compared to the total number of paid Medicaid days, shall have an upper limit set at 125 percent of the weighted median per diem cost for a hospital in that peer group;

(4) A state university teaching hospital shall have an upper limit on allowable Medicaid costs (except Medicaid capital costs and professional component costs) established at 106 percent of the weighted median per diem for the hospital's peer group;

(5) A state university teaching hospital, having Medicaid utilization of twenty (20) percent or higher, or having twenty-five (25) percent or more nursery days resulting from Medicaid-covered deliveries, as compared to the total number of paid Medicaid days, shall have an upper limit set at 128 percent of the weighted median per diem cost for a hospital of 401 beds and up;

(6) A pediatric teaching hospital shall have an upper limit set at 126 percent of the weighted median per diem cost of its appropriate peer group;

(7) A psychiatric hospital:

(a) Shall have an upper limit established on allowable Medicaid costs (except Medicaid capital costs and professional component costs) at the weighted median per diem cost for a hospital in the area;

(b) Designated by the department as a primary referral and service resource for a child in the custody of the Cabinet for Families and Children, shall:

1. Be exempt from the upper limit for the array;

2. Be paid at actual projected cost with no year end settlement to actual cost; and

3. Have the project cost adjusted for inflation using the DRI index; and

(c) With Medicaid utilization of thirty-five (35) percent or higher shall have an upper limit set at 115 percent of the weighted median per diem cost for a hospital in an area of psychiatric hospitals.

(d) The portion of provider tax attributable to Medicaid utilization shall be included in the per diem rate; and

(e) The portion of provider tax attributable to Medicaid utilization shall be included in the per diem rate; and

13. The portion of provider tax attributable to Medicaid utilization shall be included in the per diem rate; and

14. The following limits shall be applied to a per diem rate increase for an acute care hospital excluding a hospital restricted to rehabilitative services and a critical access hospital:

(a) Allowable rate growth from the prior year to the new rate year shall be limited to not more than one and one-half (1 1/2) times the DRI inflation rate for the same time period;

(b) Limits shall be included in the capital and operating cost per diem component;

(c) Rate growth beyond an amount specified in paragraph (a) of this subsection shall be considered an unallowable cost for rate setting purposes; and

(d) An unallowable cost resulting from the use of a limit established in paragraph (e) of this subsection shall not be included in the base for future rate setting purposes.

Section 14. Payments for Inpatient Services for Children under Age Six (6). For a child under age six (6) in a disproportionate share hospital and a child under age one (1) in a nondisproportionate share hospital the following shall apply:

(1) For the first thirty (30) days of inpatient service, payment shall be made in accordance with Sections 3, 4, 5, and 19 of this administrative regulation; and

(2) After thirty (30) days, an amount equal to 110 percent of a hospital's per diem rate shall be made, and the payment shall apply:

(a) To an inpatient service determined by the department to be medically necessary;

1. Thirty (30) days after the date of admission of a child; or

2. For a newborn, thirty (30) days from the date of discharge of the mother; and

(b) Without regard to length of stay or number of admissions.

Section 15. Intensity Operating Allowance. (1) In addition to a base payment rate developed under Section 3 of this administrative regulation, a pediatric teaching hospital shall be paid an amount which is equal to two (2) percent of the base rate for each one (1) percent of Medicaid occupancy not to exceed the prospectively reasonably determined uncompensated Medicaid cost, as determined by the department, to the hospital; and

(2) Instead of the payment described in subsection (1) of this section, a pediatric teaching hospital that further meets the criteria of a Type II hospital shall:

(a) In addition to the total payment received as a per diem under Section 3 of this administrative regulation, be paid an amount which:

1. Is equal to two (2) percent of the base rate for each one (1) percent of Medicaid occupancy, not to exceed the payment limit as specified in 42 CFR 447.271;

2. Is prospectively determined with an end of the year settlement; and

3. Is paid on a quarterly basis; and

(b) Provide the state funds necessary to secure federal financial participation for funding under this section.

Section 16. Disproportionate Share Hospital Program. Disproportionate share hospital payments shall be made for services provided by qualified hospitals as follows:

(1) Total payments shall be made to qualified hospitals based upon available funds;

(2) Available funds shall be in accordance with 2000 Ky. Acts ch. 310;

(3) Distributions to a Type I and Type II hospital shall be made in accordance with 2000 Ky. Acts ch. 310;

(4) The costs of indigent care for purposes of making payments to a Type I or Type II hospital shall be determined by:

(a) Calculating the costs of inpatient indigent care by multiplying each day of indigent care provided by the facility by its Medicaid per diem rate in effect for the corresponding rate year; and

(b) Calculating the costs of outpatient care by multiplying a facility's cost-to-charge ratio by its allowable indigent charges;

(c) The cost-to-charge ratio used shall be the cost-to-charge ratio in effect for the corresponding rate year as submitted by the Labor Cabinet in accordance with 463 KAR 26:091;

(5) Distributions to a Type IV hospital shall:

(a) Be based on a facility's historical proportion of costs;

(b) Be equal to the costs of services provided to Medicaid patients, minus the amount paid by Medicaid under Sections 3, 14, and 15 of this administrative regulation, plus the costs of services to uninsured patients, minus any cash payments made by uninsured patients;

(c) Be made on a quarterly basis; and

(d) Require that a facility provide up to 100 percent of matching funds to receive federal financial participation for payment under this subsection;

(6) Distributions to a Type IV hospital shall:

(a) Be equal to the costs of services provided to uninsured patients minus any payments made by uninsured patients; and

(b) Be proportionally reduced by the department if costs exceed available funds.

Section 17. Disproportionate Share Hospital Screening Process. Prior to submitting the cost of a hospital service to the Disproportionate Share Hospital Program as described in Section 16 of this administrative regulation, a hospital shall assess a patient's financial situation to determine if Medicaid or Kentucky Children's Health Insurance Program (KCHIP) may cover hospital expenses by utilizing the Medicaid or KCHIP screening form (DSH-G001).
Section 18. Disproportionate Share Hospital Guidelines. (1) For a hospital to receive funding for providing services to an uninsured individual under the disproportionate share hospital program, the following shall apply:
(a) The individual shall be a resident of Kentucky;
(b) The individual's or family unit's gross monthly income shall not exceed the federal poverty limits published annually in the Federal Register in accordance with 2000 Ky. Acts ch. 310;
(c) A hospital shall consider all income of the family unit, and the following shall be considered a family unit:
1. A parent, stepparent, and an individual under age eighteen (18) living in the same household; or
2. An individual under age eighteen (18) who is a parent; and
(d) Resources shall not exceed:
1. $2,000 for an individual;
2. $4,000 for a family size of two (2); and
3. Fifty (50) dollars for each additional family member.
(2) A hospital shall compare the family unit's total annual gross income:
(a) To the federal poverty income guidelines published annually in the Federal Register; and
(b) In accordance with 2000 Ky. Acts ch. 310;
(3) Total annual gross income shall be:
(a) Based on income received during the twelve (12) months preceding the month of receiving services; and
(b) Used unless:
1. An individual is self-employed; and
2. Has a work expense that can be deducted from gross income.
A work expense for a self-employed individual shall be deducted from gross income if:
   a. The work expense is directly related to producing a good or service; and
   b. Without it the good or service could not be produced.
Section 19. Payment to a Participating Out-of-State Hospital. (1) A participating out-of-state hospital shall be reimbursed for covered inpatient services provided to an eligible Kentucky Medicaid recipient at the lesser of:
(a) Seventy-five (75) percent of usual and customary charges; or
(b) A per diem rate equal to the in-state operating per diem upper limit for a comparable size hospital, plus:
1. A provision for capital cost that is equal to the mean capital cost per diem for the appropriate peer group in accordance with Section 10 of this administrative regulation; and
2. A professional component that shall be paid at seventy-five (75) percent of charges;
(2) Payments for a child under age six (6) in a disproportionate share hospital or under age one (1) in a nondisproportionate share hospital shall be made at the lesser of:
(a) Eighty-five (85) percent of usual and customary charges; or
(b) An amount specified in Section 14 of this administrative regulation;
(3) For the universal rate year beginning July 1, 1999, the per diem rate shall be an amount equal to the per diem determined by increasing the per diem determined under subsection (1)(b) of this section for universal rate year 1998, by three (3) percent and
(4) For the universal rate year beginning July 2000, the per diem rate shall be an amount equal to the per diem rate determined under subsection (3) of this section, increased by two and eight-tenths (2.8) percent.
Section 20. Provider Appeal Rights. If appealed, negative action shall be appealed in accordance with 902 KAR 1-671.
Section 21. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Medicaid Reimbursement Manual for Hospital Inpatient Services", July 2000 edition, Department of Medicaid Services; and
(b) "Medicaid or KCHIP Screening Form (DSH-001)", July 2000 edition.
(2) The material incorporated by reference 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. ["Acute care hospital" means a hospital licensed and certified to provide acute care hospital services in accordance with 902 KAR 20-044;]
(2) "Base year" means the cost-reporting period upon which a rate is based.
(3) "Capital costs" means capital-related expenses including insurance, taxes, interest, and depreciation related to plant and equipment.
(4) "Charity care" means a service provided to a recipient by a provider without expectation of payment by the recipient.
(5) "Cost basis" means the total allowable Medicaid inpatient cost incurred by the provider in the base year.
(6) "Department" means the Department for Medicaid Services or its agent.
(7) "Disproportionate share hospital" means a hospital that:
   a. Meets the criteria established in 42 USC 1396n-4(d); and
   b. Meets the criteria established in 42 USC 1396n-4(b); or
2. Has a Medicaid utilization of one (1) percent or higher.
(8) "DRF" means Data Resources, Incorporated.
(9) "Indexing factor" means the amount that the cost of providing a service is expected to increase during the universal rate year.
(10) "Indigent days" means days in excess of fourteen (14) covered for a Medicaid recipient and days of service provided to an individual eligible for the Kentucky Hospital Care Program, including outpatient equivalent care days, with eligibility determined in accordance with criteria established in 907 KAR 1-635, and which are uninsured or unreimbursed by another source.
(11) "Inflation factor" means the amount that the cost of providing a service has increased, or is expected to increase, for a specific period of time.
(12) "Pediatric teaching hospital" is defined in KRS 295.065.
(13) "Professional component cost" means a physician compensation cost paid by the provider to a service to a patient and includes the following categories of practice:
   a. Anesthesiology;
   b. Cardiology;
   c. Electroencephalography;
   d. Pathology;
   e. Radiology; and
   f. Psychology in a psychiatric hospital.
(14) "Psychiatric hospital" means a hospital which meets the minimum licensure requirements established in 902 KAR 20-1460.
(15) "Rehabilitation hospital" means a hospital meeting the minimum licensure requirements established in 902 KAR 20-2460.
(16) "State university teaching hospital" means:
   a. A hospital which is owned or operated by a Kentucky state supported university with a medical school;
   b. A hospital which is owned or operated by the University of Kentucky or University of Louisville medical school.
However, this shall not include a hospital having a residency program or rotation agreement.
(17) "Trending factor" means the inflation factor as applied to that period of time between a facility's base fiscal year and the beginning of the universal rate year.
(18) "Type I hospital status" means an in-state disproportionate share hospital with 100 beds or less that participates in the Medicaid Program.
(19) "Type II hospital status" means an in-state disproportionate share hospital with 101 beds or more that participates in the Medicaid Program, except for a hospital that meets the criteria established in this administrative regulation for a Type III or Type IV status hospital.
(20) "Type III hospital status" means an in-state disproportionate share hospital teaching hospital, owned and operated by either the University of Kentucky or the University of Louisville medical school, that has requested a Type III status which has been approved by the Department for Medicaid Services.
(21) "Type IV hospital status" means an in-state disproportionate share hospital participating in the Medicaid Program that is a state owned psychiatric hospital.
(22) "Type V hospital status" means an out-of-state disproportionate share hospital participating in the Medicaid Program.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(29) "Universal rate year" means the twelve (12) month period under the prospective payment system, beginning July 1 of each year for which payment rates are established for a hospital regardless of the hospital's fiscal year end.

(24) "Upper payment limit" means the maximum amount the Medicaid program shall pay for an inpatient day of care with the maximum varying based on specified circumstances as follows:
(a) Utilization factors;
(b) Teaching hospital status; and
(c) Age of patient.

(25) "Weighted median" means the cost per diem associated with the median point of cumulative inpatient days calculated by arraying cost per diems within a specified peer group from lowest to highest.

Section 2: Acute Care Hospital, Rehabilitation Hospital and Psychiatric Hospital Inpatient Services. The Department for Medicaid Services shall pay for inpatient hospital services provided to an eligible Medicaid recipient through the use of a rate that is reasonable and adequate to meet the cost that is required to be incurred by an efficiently and economically operated hospital to provide a service in conformity with applicable state and federal laws, regulations, and quality and safety standards:

Section 3: Use of a Prospective Rate. (1) A hospital shall be paid using a prospective payment rate based on allowable Medicaid inpatient costs and Medicaid inpatient days:
(a) The prospective rate shall include both routine and ancillary costs.
(b) If a base year is selected for setting a rate, that base year shall not change:
(c) The prospective rate shall not be subject to retrospective adjustment, except for a facility with a rate based on unaudited data. This facility shall have its rate appropriately revised for the rate year when the audited cost report for the base year becomes available to the department.
(d) Total prospective payments shall not exceed the total customary charges in the prospective year.
(e) An overpayment shall be recouped by:
(b) Payment from the provider for the amount of the overpayment, or
(c) The withholding of the overpayment amount from a future payment due the provider.

Section 4: Use of a Universal Rate. (1) A universal rate year shall be set for a facility with the universal rate year established as July 1 through June 30 of each year to coincide with the state fiscal year.
(2) A hospital shall not be required to change its fiscal years to conform with a universal rate years.

Section 5: Tending of a Cost Report. The following policies shall be used for the tending of a cost report:
(1) An allowable Medicaid cost, excluding capital cost, as shown in a cost report on file in the department, both audited and unaudited, shall be tendered at the beginning of the rate year to update a hospital's Medicaid cost.
(2) The tending factor to be used shall be the inflation factor prepared by DHF for the period being tending.

Section 6: Indexing for Inflation. (1) After an allowable cost has been determined to the beginning of the rate year, an indexing factor shall be applied to project inflationary cost in the universal rate year.
(2) The indexing factor to be used shall be the inflation factor prepared by DHF for the universal rate year.

Section 7: Peer Grouping. For rate setting purposes, a hospital shall be grouped with other hospitals in accordance with the following provisions:
(1) The peer grouping shall be based on the number of beds licensed; as of May 1 preceding the universal rate year, which provide Medicaid covered services and shall meet minimum licensure requirements in accordance with 902 KAR 20:050; 902 KAR 20:065; 902 KAR 20:170; 902 KAR 20:185; 902 KAR 20:230 and 902 KAR 20:240.
(2) The peer groupings shall be: 9-50 beds; 51-199 beds; 200-499 beds; and 500 beds or more.
(3) A Type III hospital shall not be included in the array for a facility with 401 beds or more, but shall be subject to the upper limit for a facility with 491 beds or more.
(4) A psychiatric hospital shall not be peer grouped but shall be in a separate array of psychiatric hospitals.
(5) Rehabilitation hospital and an acute care hospital that is restricted to providing rehabilitation services shall not be:
(a) Peer grouped;
(b) Arrayed; or
(c) Subject to the operating cost upper limit.

Section 8: Minimum Occupancy Factor. Allowable Medicaid capital cost shall be reduced if one (1) of the following minimum occupancy factors are not met:
(1) A sixty (60) percent occupancy factor shall apply to hospitals with 100 or fewer beds;
(2) A seventy-five (75) percent occupancy factor shall apply to a hospital with 101 or more beds.

Section 9: Reduced Depreciation Allowance. The allowable amount shall be applicable, as follows:
(1) The allowable amount for depreciation on building and fixtures, excluding major movable equipment, shall be sixty five (65) percent of the reported depreciation amount as shown in the hospital's cost reports.
(2) The use of a reduced depreciation allowance shall be applicable with regard to a psychiatric hospital.

Section 10: Upper limits and payment principles. The hospital shall be subject to a hospital, with additional limitations for a disproportionate share hospital established in Section 11 of this administrative regulation, as follows:
(1) An acute care hospital with 101 beds or more shall have an upper limit established on all costs (except Medicaid capital costs and professional component costs) at the weighted median per diem cost for hospital in each peer group.
(2) An acute care hospital with 100 beds or less shall have the upper limit on all costs (except Medicaid capital costs and professional component costs) shall be established at 110 percent of the weighted median per diem for a hospital in its peer group.
(3) A state university teaching hospital shall have an upper limit on all costs (except Medicaid capital costs and professional component costs) shall be established at 100 percent of the weighted median per diem for a hospital in its peer group.
(4) A psychiatric hospital shall have an upper limit established on all costs (except Medicaid capital costs and professional component costs) shall be established at 100 percent of the weighted median per diem for a hospital in its peer group.
(5) Designated by the department as a primary referral and service provider for children, newborns and children. Every hospital that is designated shall be paid actual hospital cost for any hospital in the array.
(6) The most recent Medicaid cost report available as of May 1 of each year preceding the universal rate year shall be used for rate setting.
(7) If a desk review or audit of the most current cost report is completed after May 1, but prior to the universal rate setting for the year, the desk review or audit shall be utilized for rate setting.
(8) An audit and desk review shall be conducted in accordance with the Medicaid Reimbursement Manual for Hospital Inpatient Services.
(9) Except as provided in subsection (10) of this section, the following principles shall apply:
(a) The most recent Medicaid cost report available as of May 1 of each year preceding the universal rate year shall be used for rate setting.
(b) If a desk review or audit of the most current cost report is completed after May 1, but prior to the universal rate setting for the year, the desk review or audit shall be utilized for rate setting.
(c) An audit and desk review shall be conducted in accordance with the Medicaid Reimbursement Manual for Hospital Inpatient Services.
due to a revision or correction of data:

(7) Professional component costs shall be treated and indexed separately in the same manner as operating costs, except an upper limit shall not be established.

(6) A provider tax shall be considered an allowable cost. The portion attributable to Medicaid utilization shall be included in the per diem rate.

(9) Except as provided in subsection (10) of this section, the following controls shall be applied to the per diem rates increases for an acute care hospital, excluding a hospital restricted to rehabilitative services:

(a) Allowable rate growth from the prior rate year to the new rate year shall be limited to not more than one and one-half (1 1/2) times the DRI inflation amount for the same time period;

(b) Limits shall be applied to the capital and operating cost per diem components;

(c) Rate growth beyond the allowable amounts shall be considered unallowable cost for rate setting purposes; and

(d) Unallowable costs resulting from the use of control of rate increase limits shall not be included in the base for future rate setting purposes.

(10) For the rate period beginning July 1, 1997, the rate shall be the same as for January 1, 1996, with the following modifications:

(a) The operating and professional components of the rate shall be indexed forward for the 1995 rate period using the inflation factor prepared by DRI for the same period;

(b) There shall be an add on to the rate, computed as fifteen (15) percent of the amount between the lesser of:

(i) The operating cost per diem or the maximum operating per diem rate plus the capital per diem rate;

(ii) The capital component shall not be included. The capital component of the rate shall be the amount computed for capital cost in the 1995 individual hospital rate notice, excluding the application of the rate of increase control (one and one-half (1 1/2) times the DRI);

(iii) For a medically-necessary hospital inpatient service provided for an exceptionally high cost or long length of stay, the payment rate shall be set at 110 percent of the per diem payment rate, without regard to length of stay or number of admissions of the infant. Exceptionally high cost or long length of stay shall be, in a disproportionate share hospital, those costs and days of stay for a child under age one (1) that:

(a) For a newborn, is thirty (30) days from the date of discharge for the mother; or

(b) For another child, is after thirty (30) days from the date of admission.

Section 11. The following upper limits and payment principles shall apply to a disproportionate share hospital:

(1) An acute care hospital with Medicaid utilization of twenty (20) percent or higher, or a hospital having twenty-five (25) percent or more nursery days resulting from Medicaid-covered deliveries as compared to the total number of paid Medicaid days, shall have an upper limit set at 120 percent of the weighted median per diem cost for a hospital in the peer group;

(2) A state university teaching hospital, having Medicaid utilization of twenty (20) percent or higher, or having twenty-five (25) percent or more nursery days resulting from Medicaid-covered deliveries as compared to the total number of paid Medicaid days, shall have an upper limit set at 125 percent of the weighted median per diem cost for a hospital of 401 beds and up;

(3) A designated state pediatric teaching hospital meeting the criteria in subsection (2) of this section shall:

(a) Have an upper limit set at 125 percent of the weighted median per diem cost for its appropriate peer group; and

(b) In addition to the hospital's base rate, be paid an amount which is equal to two (2) percent of the base rate for each one (1) percent of Medicaid occupancy but this amount shall not exceed the prospective reasonably determined uncompensated Medicaid cost to the hospital;

(4) Psychiatric hospitals with Medicaid utilization of thirty-five (35) percent or higher shall have an upper limit set at 110 percent of the weighted median per diem cost for a hospital in the array;

(5) An acute care hospital with 180 beds or less shall have an upper limit set at 110 percent of the weighted median per diem for a hospital in the array;

(6) Another disproportionate share acute care hospital shall have its upper limit set at the weighted median per diem of the cost for a hospital in the peer group.

(7) A hospital shall be reimbursed an additional amount equal to 110 percent of a hospital's per diem rate for medically necessary hospital stays of the patients that are paid for an exceptionally high cost or long length of stay, without regard to length of stay or number of admissions of the child. Exceptionally high cost or long length of stay shall be, in a disproportionate share hospital, those costs and days of stay for a child under the age of six (6) that:

(a) For a newborn, is thirty (30) days beyond the date of discharge for the mother; or

(b) For another child, is after thirty (30) days from the date of admission.

(8) The disproportionate share hospital payment for the period beginning February 20, 1995 shall be made as follows:

(a) The disproportionate share hospital payment for a Type I and Type II hospital shall include a volume adjustment.

1. The adjustment shall be made by paying for each indigent care day, including equivalent days based on outpatient services actually provided at the hospital during the period covered, a per diem rate equal to the hospital's average Medicaid allowable outpatient payment per visit by the Medicaid allowable outpatient payment per day and multiplying the result by the number of indigent care outpatient visits for the specified period of time.

(b) The disproportionate share hospital payment for a Type III and IV hospital shall be equal to 100 percent of the cost of services to a Medicaid patient, less the amount paid by Medicaid as a usual Medicare per diem payment, plus the cost of services to an uninsured patient, less any cash payment made by an uninsured patient. Type III status shall be granted to a state university teaching hospital if the hospital agrees as a part of its request for a Type III status to:

1. Forego a local or state government contribution for charity care; and

2. Provide up to 100 percent of the state matching funds necessary to secure federal financial participation for a Medicaid disproportionate share hospital payment to be made during the period of time the hospital is designated as a Type III status hospital.

(c) The disproportionate share hospital payment for a Type V hospital shall be one (1) dollar per Medicaid day plus an earned adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid occupancy above one (1) percent standard deviation.

Section 12. In accordance with KRS 255.040, except for nonegency care rendered through a hospital emergency room, an in-state nondisproportionate share hospital shall be compensated in the manner described in Section 11(9)(a) of this administrative regulation for services provided by the hospital to a Medicaid recipient beyond the covered days and to an individual and family with a total annual income and resources up to 100 percent of the federal poverty level.

Section 13. Payment to a Participating Out-of-state Hospital.

(1) A participating out-of-state hospital shall be reimbursed for covered inpatient services rendered to an eligible Kentucky Medicaid recipient at the lesser of seventy-five (75) percent of usual and customary charges or the in-state per diem upper limit for a comparable size hospital, plus a provision for capital cost. The capital cost provision shall be computed by using the mean value of the capital cost per diem rate per peer group for in-state hospital.

(2) A participating out-of-state hospital shall be reimbursed at the lesser of eighty-five (85) percent of usual and customary charges or 110 percent of the in-state per diem upper limit for a comparable size hospital for exceptionally high cost or long length of stay related to an infant under the age of one (1) in a nondisproportionate share hospital, or a child under age six (6) in disproportionate share hospitals.
without regard to length of stay or number of admissions of the infant or child. Exceptionally high cost or long length of stay shall be those cost and days of stay:

(a) in a non-disproportionate share hospital, as defined in Section 101 of this administrative regulation; and

(b) in a disproportionate share hospital, as defined in Section 101 of this administrative regulation;

(5) Except as provided in subsection (2) of this section, disproportionate status shall be reimbursed in accordance with Section 11(4) and (6)(b) of this administrative regulation;

(6) Professional costs for covered days of stay shall be paid at seventy-five (75) percent of the usual and customary charges of the provider.

Section 14. Provider Appeal Rights. If appealed, negative action shall be appealed in accordance with 907 KAR 1:5574.


(2) It may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, 40624; 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: June 30, 2000
FILED WITH LRC: July 12, 2000 at 4 p.m.

REGULATORY IMPACT ANALYSIS
Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: In-state hospitals (120), out-of-state hospitals (300).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public 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 public comments were received.

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

1. First year following implementation: None
2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $35.6 million additional costs.
2. Continuing costs or savings: $0
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements; hospitals will need to report costs/charges for days beyond 14.

(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 share: $27.2 million; state share: $11.4 million.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments received.

(b) Kentucky: No public comments received.

(7) Assessment of alternative methods; 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: Stimulation of this regulation will ensure general access for Kentucky's indigent citizenry who require medical services from hospitals. Hospitals will be assured of reimbursement beyond 14 days of an inpatient stay.

(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 indigent Kentuckians because they would not have benefits of additional coverage.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments: None.

(11) TIERING: Is tiering applied? 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? Yes. This administrative regulation does not set stricter requirements.

5. Justice for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

STATEMENT OF EMERGENCY
907 KAR 1:555E

This administrative regulation is being promulgated to implement an interim reimbursement payment methodology for rate setting year July 1, 2000 for the Supports for Community Living (SCL) Waiver Program. This action is taken in consideration of the legislative requirements of HB 144 of the 2000 Regular Session of the General Assembly. This statutory authority relates to the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Developmental Disabilities with regard to SCL reimbursement strategies. This action must be taken on an emergency basis to ensure timely implementation of enacted legislation in accordance with KRS 13A(1),190(1)(a). This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulotions Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Long Term Care Division
(Emergency Amendment)

907 KAR 1:555E. 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
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520
EFFECTIVE: July 10, 2000
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 requirements relating to home and community based waiver services provided to an individual with mental retardation or a developmental disability as an alternative to placement in an intermediate care facility for an individual with mental retardation or a developmental disability.

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 for Community Living Cost Report and includes the Financial Information Listing completed by the SCL provider and submitted with the cost report.
(3) "Department" means the Department for Medicaid Services or its designees.
(4) "Supports for community living" or "SCL" means community-based waiver services for an individual with mental retardation or a developmental disability.

Section 2. Coverage. (1) The department 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 with mental retardation or a developmental disability; 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) 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;
(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 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.

Section 4. Units of Service. (1) The units of service shall be as follows:

<table>
<thead>
<tr>
<th>Type of service</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>SCL coordination services</td>
<td>1 month</td>
</tr>
<tr>
<td>Residential care</td>
<td>24 hours</td>
</tr>
<tr>
<td>Community living</td>
<td>1 hour</td>
</tr>
<tr>
<td>Respite</td>
<td>1 hour</td>
</tr>
<tr>
<td>Community habilitation</td>
<td>1 hour</td>
</tr>
<tr>
<td>Physical therapy</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Occupational therapy</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Speech therapy</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Behavioral support</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Psychological services</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Wellness monitoring</td>
<td>1 visit</td>
</tr>
<tr>
<td>Supported employment</td>
<td>1 hour</td>
</tr>
<tr>
<td>Personal Emergency Response System initial installation</td>
<td>1 month</td>
</tr>
<tr>
<td>Personal Emergency Response System usage</td>
<td>1 month</td>
</tr>
<tr>
<td>Specialized medical equipment and supplies</td>
<td>1 item</td>
</tr>
</tbody>
</table>

(2) The following services shall be discontinued effective September 1, 2000:
(a) Wellness monitoring;
(b) Personal Emergency Response System initial installation;
(c) Personal Emergency Response System usage.
(3) 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.

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.
(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 cost is:
1. Identifiable and recorded in the provider’s accounting records;
2. Based on historical cost of the asset or, if determined, 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;
(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
(l) 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 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 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 maintain financial and service records for a period of not less than five (5) years.  
(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 1:553.  

Section 8. Payment Amounts for State Fiscal Year (SFY) 1999. (1) For SFY 1999, 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, 1998 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, 1998 for an SCL service was less than the provider's average unit cost that was utilized by the department to establish the payment rate for SFY 1998, 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.  
(d) 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.  
(2) A provider shall be reimbursed for a service specified in and pursuant to the methodology established in Section 3(3) of this administrative regulation.  

Section 9. Payment Amounts for State Fiscal Year (SFY) 2000. (1) For SFY 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 service unit that was in effect for an individual provider of SCL services on June 30, 2000 shall not be adjusted on July 1, 2000. The service unit payment rate shall be adjusted prospectively for SFY 2001 in accordance with the provisions of 2000 Ky. Acts ch. 403. 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) percent (b) The payment rate shall be effective for all prior authorized units of service regardless of type. (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, 2000 for an SCL service was less than the provider's average unit cost that was utilized by the department to establish the payment rate for SFY 1998, 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.  
(3) A provider shall be reimbursed for services specified in and pursuant to the methodology established in Section 3(3) of this administrative regulation.  

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
(a) Necessity of proposed regulation if in conflict: 
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(c) 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 would 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.

STATEMENT OF EMERGENCY
507 KAR 1:320E

This emergency administrative regulation is being amended to reflect changes made in the KenPAC Program to provide for an increase in the monthly case management fees paid to providers from three (3) dollars to four (4) dollars per member per month. Amendments are made to conform to the Balance Budget Act of 1997 and HB 502 of the regular session of the 2000 General Assembly. This action must be taken on an emergency basis to ensure timely implementation of enrolled legislation in accordance with KRS 13A.190(1)(a)3. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulators Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(Emergency Amendment)

907 KAR 1:320E. Kentucky patient access and care system (KenPAC).

RELATED TO: KRS 205,520
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 42 USC 1396a, b, d, u-2, 2000 Ky. Acts ch. 549 [r-n 06-06-02]
EFFECTIVE: July 7, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. [Executive Order 96-052; 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 205,520 authorizes [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 indi-
gent citizenry. This administrative regulation establishes [sets forth] the terms and conditions under which the Department for Medicaid Services shall administer the Kentucky Patient Access and Care (KenPAC) System, [provide Medicaid pursuant to a waiver granted by the Secretary, United States Department of Health and Human Serv-
ices providing for a physician primary care case management system.]  

Section 1. Definitions. (1) "AFDC-related" means a recipient who meets the requirements in effect on July 16, 1996 for Aid to Families with Dependent Children (AFDC) related Medicaid, including a specified relative and second parent.  
(2) "Department" means the Department for Medicaid Services or its designated agent.  
(3) "Emergency care" means covered inpatient and outpatient services furnished by a qualified provider that are needed to evaluate or stabilize an emergency medical condition that is found to exist using the prudent layperson standard; and emergency ambulance transport.  
(4) "Emergency medical condition" means a medical condition that manifests itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.  
(5) "EPSDT means the early and periodic, screening, diagnosis and treatment services provided to Medicaid-eligible children under Title XIX of the Social Security Act or 42 U.S.C. 1396d.  
(6) "Family-related" means a specified relative, second parent, or child under the age of eighteen (18) years, or a child age eighteen (18) years and in full-time attendance in high school or equivalent level of vocational or technical school who will complete a course of study before the 19th birthday, and who, except for income or resources, would be eligible under the guidelines in place for the AFDC-related Medicaid Program in effect on July 16, 1996.  
(7) "Equal Children's Health Insurance Program" or "KCHIP" means a child who is eligible to receive health coverage through KCHIP as defined in 907 KAR 4:020 and 907 KAR 4:030.  
(8) "Medically necessary" or "medical necessity" means that a covered benefit shall be:  
(a) Provided in accordance with 42 CFR 440.230;  
(b) Reasonable and required to identify, diagnose, treat, correct, care, palliate, or prevent a disease, illness, injury, disability, or other medical condition, including pregnancy;  
(c) Clinically appropriate in terms of amount, scope, and duration based on generally-accepted standards of good medical practice;  
(d) Provided for medical reasons rather than primarily for the convenience of the recipient, caregiver, or the provider;  
(e) Provided in the most appropriate location, with regard to generally-accepted standards of good medical practice, where the service may be practical purposes be safely and effectively provided;  
(f) Needed, if used in reference to an emergency medical service, to evaluate or stabilize an emergency medical condition that is found to exist using the prudent layperson standard; and  
(g) Provided in accordance with Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) requirements established in 42 USC 1396d(l) and 42 CFR Part 441 Subpart B for Medicaid-eligible pregnant women and children (21) years of age.  
.  
(9) "Poverty-related women and children" means a pregnant woman or a child up to the age of nineteen (19) years whose eligibility is determined using the federal poverty levels as an income standard.  
(10) "Practice agreement" means a formal written agreement, which is between, and signed and dated by, an advanced registered nurse practitioner, who functions as a primary care case manager, and a primary care physician having hospital admitting privileges that:  
(a) Defines the scope of practice, authority for the advanced registered nurse practitioner;  
(b) Provides for referral to the primary care physician for hospital admissions, if the advanced registered nurse practitioner does not have hospital admitting privileges; and  
(c) Provides for primary care physician backup twenty-four (24) hours per day seven (7) days a week for needed primary care services outside the scope of practice of the advanced registered nurse practitioner.  
(11) "Primary care case manager" or "PCCM" means a licensed physician who is a doctor of medicine or osteopathy; a licensed, certified advanced registered nurse practitioner practicing under a written practice agreement or under physician supervision; or a licensed health care clinic operating under physician supervision who:  
(a) Is responsible for superintending, coordinating, and providing initial and primary care to KenPAC recipients, for initiating referrals for specialty care, and for maintaining the continuity of patient care twenty-four (24) hours per day, seven (7) days a week;  
(b) Has hospital admitting privileges or a formal referral agreement with a primary care provider having hospital admitting privileges;  
(c) Has signed a KenPAC provider agreement with the department; and  
(d) Meets the requirements of Section 5 of this administrative regulation.  
(12) "Prudent layperson standard" means the criterion used to determine the existence of an emergency medical condition whereby a prudent layperson determines that a medical condition manifests itself by acute symptoms of sufficient severity (including severe pain) such that the person could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.  
(13) "Spend-down" means as defined in 907 KAR 1:002.  
(14) "Urgent care" means covered services that, while not required on an emergency basis, are required promptly to prevent substantial deterioration of health.  
(15) "Waiver" means a waiver of requirements provided for which the failure to provide promptly would reasonably be anticipated to cause substantial harm to the recipient. For purposes of this definition, promptly shall mean the same day or within forty-eight (48) hours based on the PCCM's assessment of urgency of need.  

Section 2. General Requirements. (1) Except in geographic areas where Medicaid services are provided under the authority of a Section 1115 waiver in accordance with 907 KAR 1:705 or in counties that do not have an adequate number of primary care case managers participating in KenPAC, the Medicaid Program's primary care case management system known as the Kentucky Patient Access and Care (KenPAC) System shall be available statewide.  
(2) If a partnership formed in accordance with 907 KAR 1:705 is dissolved, terminated, or fails to renew its contract with the department, services to Medicaid recipients in that partnership shall be provided in accordance with this administrative regulation.  

Section 3. Recipient Participation. A recipient included in one (1) of the following categories shall be required to receive Medicaid services through KenPAC or a managed care organization contracting with the department to serve the county in which the recipient resides, unless excluded in accordance with Section 4 of this administrative regulation:  
(1) AFDC-related;  
(2) Family-related;  
(3) Poverty-related women and children; and  
(4) Kentucky Children's Health Insurance Program (KCHIP).  

Section 4. Recipient Exclusions. From KenPAC. (1) The following shall not be enrolled in the KenPAC Program:  
(a) An individual receiving Medicare benefits;  
(b) An American Indian who is a registered member of a federally-recognized tribe;  
(c) A child under nineteen (19) years of age who is:  
1. Eligible for Supplemental Security Income (SSI) under 42 USC 1382a;  
2. Described in 42 USC 1396a(a)(3);  
3. In foster care or subsidized adoption; or  
4. Receiving case management services through a family-centered, community-based, coordinated care system receiving grant funds under 42 USC 501(a)(1)(D); or  
5. In the custody of the Department of Juvenile Justice;  
(d) A recipient who participates in the Kentucky Health Insurance Premium Payment Program (KCHIP);

shall receive a management fee of four (4) dollars per month per KenPAC recipient assigned.

Section 9. Covered Services Under KenPAC.
(1) Services shall be covered through the KenPAC program based on medical necessity.
(2) Except for services identified in subsection (4)(a) through (m) of this section, the PCCM shall be responsible for managing the following:
(a) Primary care provider and physician specialty services;
(b) Hospital inpatient and outpatient services;
(c) Ambulatory surgical center services;
(d) Home health services;
(e) Primary care center services and rural health clinic services;
(f) Advanced registered nurse practitioner services if it is a nonexcluded service provided by an ARNP who is not the primary care case manager;
(g) Durable medical equipment and medical supplies;
(h) Laboratory and radiological services;
(i) Pharmacy services for prescriptions issued by the PCCM;
(j) EPSDT screening services and follow-up treatment to the extent provided by the PCCM; and
(k) Physical therapy, occupational therapy, and speech therapy.
(3) Access to emergency care or services for treatment of an emergency medical condition shall be made available in accordance with the prudent layperson standard.
(4) The following Medicaid services shall not require prior authorization from the KenPAC PCCM:
(a) A service provided by a dentist or oral surgeon;
(b) A physician service by a psychiatrist, an inpatient psychiatric facility or clinic service or an outpatient psychiatric facility or clinic service;
(c) A covered medical service provided by an ophthalmologist or optometrist, and eyeglasses;
(d) A maternity care service including prenatal care, delivery, and postpartum care;
(e) A service provided by a podiatrist;
(f) A general medical transportation service or an emergency or nonemergency ambulance service;
(g) A service provided by the Kentucky Early Intervention Services Program;
(h) A service provided by an audiologist or hearing aid dealer and hearing aids;
(i) A family planning service provided by:
1. A local health public department;
2. A family planning clinic;
3. A primary care center or rural health clinic;
(j) A nonphysician service provided through the Medicaid Preventive Services Program by a local public health department;
(k) A chiropractic service;
(l) A newbron care service; and
(m) A service for which the department has made a determination on an individual basis that it would be in the best interest of a Medicaid recipient to exempt the service from KenPAC prior authorization.
(5) Prior authorization shall not be required prior to delivery of emergency care. However, the service provider shall request a retrospective authorization number for emergency care from either the primary care case manager or the Medicaid Program prior to billing Medicaid.
(6) Retrospective authorization shall be obtained from either the primary care case manager or the Medicaid Program prior to billing Medicaid for urgent care if the urgent care is:
(a) Medically necessary;
(b) Needed the same day; and
(c) A service provider is unable to contact the PCCM for prior authorization.
(7) A KenPAC recipient, unless otherwise restricted through the Medicaid lock-in program in accordance with 907 KAR 1:577, shall have the right to obtain prescriptions from any pharmacy that participates in the Kentucky Medicaid Program.

Section 10. Primary Care Case Manager Requirements. The primary care case manager shall be responsible for the following:
(1) Accepting a KenPAC recipient pursuant to the terms and conditions of the PCCM provider agreement;
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(2) Supervising, coordinating, and providing initial and primary care to KenPAC recipients;
(3) Initiating referrals for specialty care;
(4) Authorizing medically necessary services;
(5) Maintaining the continuity of patient care twenty-four (24) hours per day, seven (7) days a week; and
(6) Assuming that a recipient under age twenty-one (21) receives appropriate preventive care in accordance with the EPSDT periodicity schedule specified in 907 KAR 1:034.

Section 11. Recipient Assignment. (1) A recipient shall be afforded the opportunity to select a KenPAC primary care case manager from the participating KenPAC providers in the recipient's county of residence or an adjacent county.
(2) If both KenPAC and a managed-care organization (MCO) contracting with the department serve the county in which the recipient resides, a recipient shall have a choice between receiving Medicaid services through a KenPAC PCCM or an MCO.
(3) If a recipient does not make a voluntary selection, the recipient shall be assigned by the department to:
   (a) Either a KenPAC PCCM or an MCO if both are available in the recipient's county of residence; or
   (b) A KenPAC primary care case manager if only KenPAC is available in the recipient's county of residence.
(4) A recipient shall have the right to change his PCCM upon request within the first three (3) months after selection or assignment without cause.
(5) After the three (3) month period, a recipient shall have the ability to change a PCCM only for one (1) of the following:
   (a) Inability to receive an appointment with the PCCM;
   (b) The recipient no longer resides within the same county as the PCCM;
   (c) Incompatibility in the PCCM-patient relationship; or
   (d) A reason for which the department has made a determination on an individual basis that it would be in the best interest of a Medicaid recipient to change his PCCM.
(6) Open enrollment shall be available each year from October through December.
(7) At least sixty (60) days prior to the open enrollment period, a recipient shall be advised in writing by the department of the opportunity to change a PCCM.

Section 12. Disenrollment. (1) A primary care case manager may request to disenroll a KenPAC recipient due to incompatibility in the PCCM-patient relationship or inability to adequately meet the needs of a recipient by writing a letter to the recipient and mailing a copy to the department.
(2) To ensure a smooth transition in the care of a recipient, the PCCM shall continue to provide or arrange for the provision of primary care and other services and make referrals until a recipient is no longer assigned to that PCCM.

Section 13. Utilization Control. (1) A primary care case manager identified by the department as having an inappropriate utilization or performance pattern shall be subject to probation as specified in the provider agreement.
(2) The PCCM shall be notified in writing of a probationary period of a maximum of six (6) months and provided with the opportunity for corrective action.
(3) A pattern of persistent and significant inappropriate utilization or performance shall be grounds for termination as a KenPAC PCCM.
(4) A KenPAC provider placed on probation or terminated may request an appeal of the decision in accordance with Section 14(3) of this administrative regulation.

Section 14. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid recipient shall be in accordance with 907 KAR 1:663.
(2) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:590.
(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671. ([Department] means the Department for Medicaid Services.
(4) *Emergency care* means any condition for which a delay in treatment will likely result in a recipient's death or permanent impairment of recipient's health.
(5) *Spend-down* means as defined in 907 KAR 1:592.
(6) *Urgent care* means a condition not likely to cause death or lasting harm but for which treatment should not wait for a normally scheduled appointment.

Section 2: General. The department shall implement, within the Medicaid Program, a physician primary care case management system to be known as the Kentucky Patient Access and Care System (KenPAC). KenPAC shall be implemented and administered in accordance with the terms of the waiver granted by the Secretary, United States Department of Health and Human Services under the authority granted by 42 USG 1506.

Section 3. Recipient Participation: All recipients of Aid to Families with Dependent Children (AFDC) and AFDC-related medical assistance only shall be required to participate in KenPAC unless excluded as shown in Section 4 of this administrative regulation.

Section 4. Recipient Exclusions from KenPAC. (1) Excluded from KenPAC shall be individuals:
   (a) Who are aged, blind, or disabled (i.e., individuals whose eligibility for Medicaid is based on age, blindness, or disability);
   (b) Those who are in mental hospitals, nursing facilities, and personal care homes;
   (c) Individuals in foster care or subsidized adoption status;
   (d) Alien spend-down cases;
   (e) Refugees; and
   (f) All lock-in cases.
(2) Individuals eligible to participate but who reside in a county which does not have an adequate number of primary physicians or clinics participating in KenPAC shall not be required to participate in KenPAC until adequate physician or clinic resources are available in the county. The department may choose to permit voluntary participation by recipients in those counties.

Section 5. Physician Participation. (1) Primary care physicians permitted to participate in KenPAC shall be general practitioners, family practitioners, pediatricians, internists, obstetricians, gynecologists, and doctors of osteopathy.
(2) Clinics may participate if the clinic has at least one (1) full-time equivalent physician who is a primary care physician as shown in subsection (1) of this section.
(3) Rural health clinics may participate, but shall not be required to have a full-time equivalent primary care physician.
(4) Specialty physicians may participate under extraordinary circumstances if the department determines the participation would be in the best interests of both the recipient and the KenPAC system.

Section 6. KenPAC Provider Agreements. All participating primary care providers shall be required to sign a KenPAC participation agreement in addition to the standard Medicaid provider agreement and shall be bound by its terms and conditions.

Section 7. Quotas: Each primary care provider shall be required to specify the number of recipients the provider is willing to serve as primary care case managers. Unless circumstances exist which require the department to authorize a higher quota for a provider to ensure adequate coverage in an area, the upper limit shall be 1,500 recipients per full-time physician. Primary centers and rural health clinics may, in addition, have a quota of up to 300 recipients for each participating advanced registered nurse practitioner (ARNP).

Section 8. Primary Care Case Management Fees. (1) Each physician or clinic shall receive a management fee of three (3) dollars per month per KenPAC recipient assigned.
(2) If a primary care center or rural health center has advanced registered nurse practitioners (ARNP) on staff for whom an additional quota is allowed, the clinic shall be paid a management fee of three (3) dollars per month per recipient assigned to an ARNP (not to exceed 300 recipients per full-time ARNP), with the balance of the management fee computed in the manner previously specified.
Section 9. Covered Services Under KenPAC. (1) The following services shall be managed by the primary physician or clinic: physician services; hospital inpatient and outpatient services; home health agency services; laboratory services; ambulatory surgical center services; primary care center services; rural health center (clinic) services; durable medical equipment; other laboratory and x-ray services; physician's component of preventive services; advanced registered nurse practitioner services; and nurse anesthesia services.

(2) The physician services element shall not include services provided by ophthalmologists or psychiatrists or obstetrical services.

(3) All other services available under the Medicaid program shall be secured in the usual manner.

(4) Access to medically necessary emergency services shall not be restricted by KenPAC even though the medical service may customarily be within KenPAC.

(5) Urgent care if medical necessity dictates early treatment or hospitalization may be provided without preauthorization from the primary physician or clinic if the primary physician or clinic cannot be reached.

(6) For both emergency and urgent care, authorization shall be obtained from either the primary physician or clinic or the Medicaid Program prior to billing Medicaid for the emergency or urgent care service.

(7) Inpatient hospital services element shall not include psychiatric and obstetrical services.

Section 10. Recipient Assignment. Each KenPAC recipient shall be afforded the opportunity to select his KenPAC provider from among participating KenPAC providers in his county of residence or any adjacent county. If a voluntary selection is not made, a primary care provider shall be assigned by the Medicaid program.

Section 11. Phase-in of KenPAC. As adequate physician participation permits, KenPAC shall be phased in to additional counties. Recipients in these counties shall be assigned to the program at the scheduled semianual or annual reinvestigation if possible.

Section 12. Hearing and Appeal Rights. Any individual required to participate in KenPAC shall be entitled to the same hearing and appeal rights as are available to any other applicant for or recipient of Medicaid as set forth in 907 KAR 1:566.

Section 13. Utilization Control. A primary care physician or clinic identified by the department as having an abusive or inappropriate utilization pattern or inconsistent with the pattern of other providers in KenPAC shall be removed from KenPAC and denied further participation rights in KenPAC. Any provider so excluded may seek review of the decision in accordance with the KenPAC provider agreement.

Section 14. The amendments to this administrative regulation shall be applicable for services provided on or after July 1, 1996.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 3, 2000
FILED WITH LRC: July 7, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez
(1) Type and number of entities affected: All health care providers who meet the qualifications listed in the administrative regulation and who wish to contract with the department as KenPAC providers and all recipients who meet the KenPAC eligibility criteria.

(2) Direct and indirect costs or savings on the entity: The 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: A public hearing is scheduled for August 31, 2000 to receive public comments.

(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: A public hearing is scheduled for August 31, 2000 to receive public comments.

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

1. First year following implementation: None
2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: $2.9 million in additional costs with funding provided by General Fund and Restricted Fund appropriations. The funding is included in the enacted biennium budget.

2. Continuing costs or savings: $2.9 million annually.

3. Additional factors increasing or decreasing costs: An increase or decrease in the number of recipients eligible under the KenPAC Program would cause this amount to be higher or lower.

(b) Reporting and paperwork requirements: None.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. Federal matching funds of 70.55% equaling $2 million and state matching funds of 29.45% equaling $3.9 million will be expended. Authorization and funding for this change is included in the enacted biennium 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: A public hearing is scheduled for August 31, 2000 to receive public comments.

(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: Implementation of this administrative regulation will increase the per member per month fee in accordance with HB 502 of the 2000 Regular Session of the General Assembly for physicians to become KenPAC primary care case managers.

(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 government policy which may be in conflict, overlapping, or duplication: None

(10) Necessity of proposed regulation if in conflict:

(a) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY

907 KAR 1:475E

This emergency administrative regulation is being promulgated to repeal 907 KAR 1:470, 907 KAR 1:472, and 907 KAR 1:474 which contain outdated policy and payment methodology related to durable medical equipment. This action must be taken on an emergency basis to allow implementation of 907 KAR 1:475E which contains revised policy and payment methodology for durable medical equipment and expands coverage to include amino acid modified nutritional supplements and low protein food products associated with inherited metabolic disorders as required by 2000 Ky. Acts ch. 457. Failure to repeal these administrative regulations on an emergency basis would allow conflicting policy to remain in effect. This emergency administrative regulation will not be followed by an ordinary because it is a repealer administrative regulation.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department For Medicaid Services
Division of Physical Health
(Emergency)


RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520(3)
EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation acts specifically to repeal 907 KAR 1:470, 907 KAR 1:472 and 907 KAR 1:474. The outdated policy and payment methodology contained in the administrative regulations being repealed has been revised and combined into one (1) administrative regulation, 907 KAR 1:478E.

Section 1. 907 KAR 1:470, 907 KAR 1:472, and 907 KAR 1:474 are hereby repealed.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 7, 2000
FILED WITH SECRETARY OF STATE: July 12, 2000, 3:24 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 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 August 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 the deadline, the hearing may not be consecutive. This public 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) 564-7753 (Fax).

REGULATORY IMPACT ANALYSIS
Agency Contact Person: Karen Doyle or Sharon Rodriguez
(1) Type and number of entities affected: Eligible Medicaid recipients and durable medical equipment suppliers.
(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 year: None
(3) Effects on the promulgating administrative body: Repeal of these regulations will be budget neutral. The fiscal impact associated with the revision of durable medical equipment policy is in the companion regulation 907 KAR 1:478E.
(a) Direct and indirect costs or savings:
1. First year: Budget neutral.
2. Contining 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: Federal and state matching funds. State revenues will come from funds already allocated for Medicaid benefits.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide
(b) Kentucky: None
(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation allows for the repeal of obsolete and conflicting information related to durable medical equipment covered by the Medicaid Program.
(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes.
(c) If detrimental effect would result, explain detrimental effect:
Failure to repeal the administrative regulations cited would result in conflicting and erroneous information to be in effect with regard to covered and noncovered durable medical equipment. This could result in a Medicaid recipient being denied a piece of equipment due to conflicting or obsolete policy still being in 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.

STATEMENT OF EMERGENCY
907 KAR 1:478E

This emergency administrative regulation is being promulgated in accordance with KRS 13A.190(1)(a)3 to comply with 2000 Ky. Acts ch. 429 which requires Medicaid to cover amino acid modified nutrition supplements and low-protein modified food products associated with inherited metabolic disorders and to clarify coverage criteria and payment methodology for durable medical equipment. This action must be taken on an emergency basis to comply with enacted legislation and to ensure a July 14, 2000 effective date. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

- 431 -
CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(Emergency)

907 KAR 1:478E. Durable medical equipment covered services and reimbursement.

RELATES TO: KRS 205.520, 42 CFR 440.230, 441 Subpart B, 424.57, 42 USC 1396d(r)
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.560, 42 USC 1396a, b, d
EFFECTIVE: July 12, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky’s indigent citizenry. This administrative regulation establishes the provisions relating to coverage and reimbursement requirements for durable medical equipment, medical supplies, prosthetics, and orthotics for which payment shall be made by the Medicaid Program on behalf of both the categorically needy and the medically needy.

Section 1. Definitions. (1) "Acquisition cost" means the actual cost to the supplier reflecting all discounts.

(2) "Certificate of medical necessity" or "CMN" means a form or letter required by the Department for Medicaid Services to document medical necessity for durable medical equipment, medical supplies, prosthetics, and orthotics.

(3) "Continuing rental item" means an item that shall be rented instead of being purchased.

(4) "Department" means the Department for Medicaid Services or its designated agent.

(5) "Covered benefit" or "covered service" means an item of durable medical equipment, prosthetic, orthotic, or medical supply for which coverage is provided by the Kentucky Medicaid program.

(6) "DMEPOS" means durable medical equipment, prosthetics, orthotics, and supplies.

(7) "DMERC" means durable medical equipment regional carrier.

(8) "Durable medical equipment" or "DME" means equipment which:

(a) Withstands repeated use;
(b) Is primarily and customarily used to serve a medical purpose;
(c) Is generally not useful to a person in the absence of an illness or injury; and
(d) Is appropriate for use in the home.

(9) "Frequently serviced item" means an item that requires frequent and substantial servicing as determined by the department.

(10) "Health Care Financing Administration" or "HCFA" means the federal agency that approves Medicare codes for durable medical equipment, prosthetics, orthotics, and medical supplies.

(11) "HCPCS*" means the HCFA Common Procedure Coding System.

(12) "Home" means a place where the recipient resides excluding:

(a) Nursing facility;
(b) Hospital;
(c) Intermediate care facility for the mentally retarded (ICF-MR); or
(d) Institution for individuals with a mental disease (IMD).

(13) "Medicaid fee schedule" means a list containing the current Medicaid maximum allowable amount established by the department for a designated item of durable medical equipment, prosthetic, orthotic, or medical supply covered by Medicaid, but not covered by Medicare.

(14) "Medically necessary" or "medical necessity" means that a covered benefit shall be:

(a) Provided in accordance with 42 CFR 440.230;
(b) Reasonable and required to identify, diagnose, treat, correct, cure, ameliorate, palliate, or prevent a disease, illness, injury, disability, or other medical condition, including pregnancy;
(c) Clinically appropriate in terms of amount, scope, and duration based on generally accepted standards of good medical practice;
(d) Provided for medical reasons rather than primarily for the convenience of the recipient, caregiver, or the provider;
(e) Provided in the most appropriate location, with regard to generally accepted standards of good medical practice, where the service may, for practical purposes, be safely and effectively provided;
(f) Needed, if used in reference to an emergency medical service, to evaluate or stabilize an existing emergency medical condition that is found to exist using the prudent layperson standard; and
(g) Provided in accordance with early and periodic screening, diagnosis, and treatment (EPSDT) requirements established in 42 USC 1396d(r), and 42 CFR 441 Subpart B, for recipients under twenty-one (21) years of age.

(15) "Medical supply" means an item that is:

(a) Consumable;
(b) Nonreusable;
(c) Disposable; and
(d) Primarily and customarily used to serve a medical purpose.

(16) "Medicare-based purchase price" means the Medicare maximum allowable amount for a purchased item based on the current fee schedule.

(17) "Medicare-based rental price" means the Medicare maximum allowable amount for a rental item on a monthly basis based on the current fee schedule.

(18) "Medicare fee schedule" means the current Medicare Region C DMEPOS Fee Schedule Catalog.

(19) "Medicare-reimbursable HCPCS code" means a code designated to a Medicare-covered item by the Health Care Financing Administration as part of the Common Procedure Coding System.

(20) "Nutritional supplement" means a liquid or powder administered orally or parenterally that is specially formulated to supply complete diagnosis-appropriate nutrition, including kilocalories, proteins, vitamins, minerals, and prescribed by a licensed prescriber.

(21) "Orthotic" means a mechanical device or brace that is designed to support or correct a defect or deformity or to improve the function of a movable part of the body.

(22) "Prescriber" means a physician, podiatrist, optometrist, dentist, or advanced registered nurse practitioner who, within the legal scope of clinical practice, orders a medically-necessary covered benefit for a recipient.

(23) "Prosthetic" means an item that replaces all or part of the function of a body part or organ.

(24) "Reasonableness" means:

(a) Whether the expense of the item exceeds the therapeutic benefits which could otherwise be derived from use of the item;
(b) Whether the item is substantially more costly than a medically appropriate alternative of care; and
(c) Whether the item serves the same purpose as an item already available to the recipient.

(25) "Supplier" means a provider of durable medical equipment, medical supplies, prosthetics, or orthotics.

(26) "Supplier manual" means the current Medicare Region C DMERC DMEPOS Supplier Manual.

(27) "Unassigned HCPCS code" means a code designated by the department or the Health Care Financing Administration for an item of durable medical equipment, medical supply, prosthetic, or orthotic that is covered by Medicaid, but not covered by Medicare.

(28) "Unassigned purchase price" means acquisition cost plus thirty (30) percent.

(29) "Unassigned rental price" means ten (10) percent of the unassigned purchase price.

(30) "Usual and customary price" means the uniform amount that a supplier charges to the general public for a specific covered benefit.

Section 2. General Coverage. (1) The department shall base coverage for an item of durable medical equipment, medical supply, prosthetic, or orthotic on:

(a) The current Region C DMERC DMEPOS Supplier Manual or this section of the administrative regulation;
(b) Medical necessity; and
(c) Reasonableness as determined by the department.

(2) Medicare-reimbursable HCPCS codes shall be covered for payment in accordance with 42 CFR 440.230(c) and Medicare policy specified in:
(a) The current Medicare Region C DMERC DMEPOS Supplier Manual; or
(3) Unassigned HCPCS codes shall be listed on the Medicaid Fee Schedule and available on the Department for Medicaid Services' web site at https://ofo.chohr.state.va.us/ofo/dme/.
(4) Coverage for an item of durable medical equipment, medical supply, prosthetic, or orthotic not addressed by the current Region C DMERC DMEPOS Supplier Manual or within this section shall be based on medical necessity and reasonableness and shall, unless specifically exempted by the department, require prior authorization.
(5) Each DME item, medical supply, prosthetic, or orthotic shall require a CMN, unless specifically exempted by the department, and a prescriber's order that shall be kept on file by the supplier for a period of five years.
(6) The CMN shall contain:
(a) The recipient's name and address;
(b) A complete description of the item or service ordered;
(c) The recipient's diagnosis;
(d) The expected start date of the order;
(e) The length of the recipient's need for the item;
(f) The medical necessity for the item;
(g) The prescriber's name, address, telephone number and Unique Provider Identification Number (UPIN), if applicable; and
(h) The prescriber's signature and date.
(7) The prescriber shall examine a recipient within sixty (60) days prior to the initial order for the DME item, medical supply, prosthetic, or orthotic.
(8) A change in supplier shall require a new CMN signed and dated by a prescriber who shall have seen the recipient within sixty (60) days prior to the order.
(9) A CMN and prescriber's order shall be updated every (6) months or with each request for prior authorization.
(10) In accordance with 42 CFR 440.230(c), the department shall not arbitrarily deny coverage based solely on diagnosis, type of illness, or condition.
(11) The department shall only purchase a new DME item.
(a) A new DME item placed with a recipient initially as a rental shall be considered a new item at the time of purchase.
(b) A used DME item placed with a recipient initially as a rental shall be replaced by the supplier with a new item prior to purchase by the department.
(12) A qualifying test or medical evaluation shall be required to determine medical necessity for the following and shall not be performed by the supplier or a person that has a contractual relationship with the supplier:
(a) An augmentative communication device;
(b) Oxygen; or
(c) A wheelchair.
Section 3. Special Coverage. (1) An electronic speech aid shall be covered if medically necessary for a recipient who is permanently unable to communicate through oral speech.
(2) A customized DME item shall be covered if uniquely constructed for an individual recipient. The customized DME shall not be:
(a) Merely the assembly of modular components;
(b) The addition of various accessories; or
(c) Primarily for use in a leisure or recreational activity.
(3) A customized DME item shall be necessary for the recipient to:
(a) Function in the home; or
(b) Perform activities of daily living as follows:
1. Using the telephone;
2. Food preparation;
3. Housekeeping;
4. Laundry;
5. Toileting;
6. Mobility;
7. Transferring; or
8. Taking medications.
(4) Orthopedic shoes and attachments shall be covered if they are medically necessary for:
(a) A congenital defect or deformity;
(b) A deformity due to injury; or
(c) Use as a brace attachment.
(5) A therapeutic shoe or boot shall be covered if medically necessary to treat a nonhealing wound, ulcer, or lesion of the foot.
(6) An enteral, parenteral, or oral nutritional supplement shall be covered if:
(a) It is medically necessary;
(b) It is the total source of a recipient's daily intake of nutrients; and
(c) Nutritional intake is documented on the CMN.
(7) An amino acid modified preparation or a low-protein modified food product prescribed by a physician for the treatment of an inherited metabolic condition specified in KRS 205.560 shall be covered if medically necessary and if such preparation or product is not covered through the Medicaid Outpatient Pharmacy Program.
Section 4. Coverage of Repairs and Replacement of Equipment. (1) If a DME item, prosthetic, or orthotic has an effective warranty, the department shall not be responsible for repair or replacement cost.
(2) Reasonable repair to a purchased DME item, prosthetic, or orthotic shall be covered as follows:
(a) During a period of medical need;
(b) If necessary to make the item serviceable;
(c) If no warranty is in effect on the requested repair; and
(d) In accordance with Section (6)(3) of this administrative regulation.
(3) Extensive maintenance, as recommended by the manufacturer and performed by authorized technicians, to purchased equipment shall be considered to be a repair.
(4) The replacement of a medically necessary DME item, medical supply, prosthetic, or orthotic shall be covered for the following:
(a) Loss of the item;
(b) Irreparable damage or wear; or
(c) Change in a recipient's condition that requires a change in equipment.
(5) Suspected malicious damage, culpable neglect, or wrongful disposition of a DME item, medical supply, prosthetic, or orthotic shall be reported by the supplier to the department if the supplier is requesting prior authorization for replacement of the item.
Section 5. Coverage of Rental Items. (1) The following shall be covered as a continuing rental item:
(a) An intravenous pump;
(b) An apnea monitor; or
(c) A generator for use with a vest airway clearance system;
(d) An electric breast pump if medically necessary for the following:
1. Medical separation of mother and infant;
2. Inability of an infant to nurse normally due to a severe feeding problem; or
3. An illness or injury that interferes with effective breast-feeding; and
(e) A frequently serviced item.
(2) The maximum period for Medicaid coverage of the initial rental of a transcutaneous electrical nerve stimulator (TENS) or respiratory assistive device shall not exceed sixty (60) days.
(3) The maximum period for Medicaid coverage of the initial rental of in-home phototherapy shall be seven (7) days.
Section 6. Limitations on Coverage. (1) The following items shall be covered for purchase only:
(a) A cane;
(b) Crutches;
(c) A standard walker;
(d) A prone or supine stander;
(e) A vest airway clearance system, excluding the generator; and
(f) A noninvasive electrical osteogenesis stimulator.
(2) The following items are excluded from Medicaid coverage through the DME Program:
(a) An item covered for Medicaid payment through another Medicaid Program;
(b) Equipment that is primarily and customarily used for a nonmedical purpose;
(c) Physical fitness equipment; and
(d) Equipment that is designed to serve as a comfort or conven-
ience device for a recipient or a person caring for a recipient; (e) A medical supply that is essential for use with rental equipment; (f) Routine maintenance of DME that includes: 1. Testing; 2. Cleaning; 3. Regulating, and (g) A backup wheelchair; and (h) An item determined not medically necessary by the department. (3) An estimated repair shall not be covered if the repair cost equals or exceeds: (a) The purchase price of a replacement item; or (b) The total reimbursement amount for renting a replacement item of equipment for the estimated remaining period of medical need. (4) A DME item or medical supply shall not be covered for a recipient residing in a hospital, nursing facility, intermediate care facility for the mentally retarded, or an institution for individuals with a mental disease.

Section 7. Prior Authorization Requirements and Process. (1) Prior authorization shall be required for the following: (a) An item utilizing an unassigned HCPCS code unless specifically exempted by the department; (b) An item utilizing a repair procedure code and billed to the department at $300 or more; (c) An item not utilizing a repair procedure code and billed to the department at $200 or more; (d) Rental of equipment; (e) A therapeutic shoe or boot; (f) Orthopedic shoes; (g) An adjustment to a prosthetic or orthotic; (h) A prosthetic; (i) An augmentative communication device; (j) A customized DME item; (k) A replacement DME item; and (l) An item as determined by the department to require prior authorization. (2) If an item requires prior authorization, a supplier shall obtain written authorization for the item: (a) Prior to the date of service; or (b) Within ninety (90) calendar days after the date of service. (3) If a supplier provides an item that requires prior authorization before the prior authorization is received, the supplier assumes the risk that the prior authorization may not be subsequently approved. (4) The supplier shall initiate the prior authorization by mailing or faxing the following information to the department: (a) A completed prior authorization form (MAP-9); (b) A completed CMN; (c) A prescriber's order or prescription; and (d) If requested by the department, additional information required to establish medical necessity. (5) The following additional information is required for prior authorization of a customized item: (a) An estimate of the fitting time; (b) An estimate of the fabrication time; and (c) A description of the materials used in customizing the item; and (d) An itemized estimate of the cost of the item, including the cost of labor. (6) The following additional information is required for prior authorization of a repair to purchased equipment: (a) A description of the nature of the repair; (b) An itemization of the parts required for the repair; (c) An itemization of the labor time involved in the repair; and (d) A copy of the manufacturer's warranty indicating the purchase date or a written notice from the DME supplier stating that the requested repair is not covered by the warranty. (7) The maximum period for which a DME item, medical supply, prosthetic, or orthotic shall be prior authorized is six (6) months. The prior authorization period may be extended upon the provision of a new CMN from the treating prescriber. (8) Prior authorization by the department shall not be a guarantee of recipient eligibility. Eligibility verification shall be the responsibility of the supplier. (9) Upon review and determination by the department that removing prior authorization shall be in the best interest of Medicaid recipients, the prior authorization requirement for a specific covered benefit shall be discontinued, at which time the covered benefit shall be available to all recipients without prior authorization.

Section 8. Reimbursement for Covered Services. (1) If a Medicare-reimbursable HCPCS code exists for a covered benefit, reimbursement shall be: (a) For a purchased item, the lessor of: 1. The maximum allowable amount for the item on the current Medicare fee schedule; or 2. The supplier's usual and customary purchase price; and (b) For a rental item, the lessor of: 1. The maximum allowable monthly amount for the item on the current Medicare fee schedule; or 2. The supplier's usual and customary monthly rental price. (2) If no Medicare-reimbursable HCPCS code exists for a covered benefit, reimbursement shall be: (a) For a purchased item: 1. The maximum allowable amount for the item on the current Medicaid fee schedule; or 2. The lesser of: a. Acquisition cost plus thirty (30) percent; or b. The supplier's usual and customary purchase price; and (b) For a rental item: 1. The monthly maximum allowable amount for the item on the current Medicaid fee schedule; or 2. The lesser of: a. Ten (10) percent of the total of acquisition cost plus thirty (30) percent; or b. The supplier's usual and customary monthly rental price. (3) If the total reimbursement for a rental item equals the purchase price, the item shall be considered to be purchased and shall be the property of the recipient. (4) The purchase price of a prosthetic or orthotic shall include: (a) The acquisition cost of the prosthetic or orthotic; (b) The design cost of the prosthetic or orthotic; (c) Required visits with a prosthetist or orthotist prior to receipt of the item; (d) Proper fitting of the prosthetic or orthotic; (e) Necessary post fitting and adjustment visits for one (1) year after receipt of the prosthetic or orthotic; (f) A warranty by the prosthetist or orthotist covering a defect in material or workmanship; and (g) Required modifications for one (1) year after receipt of the prosthetic or orthotic if the modification is not a result of physical growth or excessive change in stump size. (5) The rental price shall include cost of: (a) Delivery; (b) Pick up; (c) Routine maintenance; (d) Shipping; (e) Freight; and (f) Handling. (6) If ongoing therapy utilizing a TENS or respiratory assistive device is necessary, the item shall be purchased and reimbursed at the purchase price less the total reimbursement amount for the initial rental period. (7) If a repair to a purchased item utilizes a part with a Medicare-reimbursable HCPCS code, the repair part shall be reimbursed in accordance with subsection (1)(a) of this section. (8) If a repair to a purchased item utilizes a part with an unassigned HCPCS code, the part shall be reimbursed in accordance with subsection (2)(a) of this section. (9) Labor costs for a repair shall be billed in quarter hour increments and shall use the appropriate Medicare-reimbursable HCPCS code for labor specified in the supplier manual. (10) Reimbursement for customized items. (a) A covered repair to a customized DME item, prosthetic, or orthotic shall be reimbursed in accordance with subsections (7), (8) and (9) of this section.
(b) An item that has been assembled by a supplier or ordered from a manufacturer who makes special features, modifications, or components shall not be considered a customized item and shall be reimbursed using a Medicare-reimbursable HCPCS code for the components of the item.

(c) If an item is individually constructed, but consists of components that have standard costs and charges, these components shall be identified and reimbursed using a Medicare-reimbursable HCPCS code.

(d) A customized component that requires an unassigned HCPCS code shall be reimbursed at acquisition cost plus thirty (30) percent not to exceed the usual and customary price.

(11) The supplier shall not bill Medicaid an amount exceeding the supplier’s usual and customary price.

Section 9. Conditions for Provider Participation. A participating DME provider shall:

(1) Have an active Medicare DME provider number and adhere to all Health Care Financing Administration supplier standards in accordance with 42 CFR 424.57; and

(2) Meet the requirements for provider participation in the Kentucky Medicaid Program in accordance with 907 KAR 1:571 and 907 KAR 1:572.

Section 10. Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid recipient shall be in accordance with 907 KAR 1:553.

(2) An appeal of a negative action taken by the department regarding eligibility of an individual shall be in accordance with 907 KAR 1:550.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Medicare Region C DMERC DMEOPOS Supplier Manual, Spring, 2000 edition";
(b) "Medicare Region C DMEOPOS Fee Schedule Catalog, 2000 edition";
(c) "Form MAP-9, Prior Authorization Form, 12/95 edition", Department for Medicaid Services;
(d) "Form MAP-1000, Certificate of Medical Necessity, 02/00 edition", Department for Medicaid Services; and
(e) "Kentucky Medicaid DMEOPOS Fee Schedule, 2000 edition", Department for Medicaid Services.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. through 4:30 p.m.

Section 12. Effective Date. The provisions of this administrative regulation shall be effective July 14, 2000.

DENNIS BOYD, Commissioner
JOHN H. WALKEH, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 6, 2000
FILED WITH LRC: July 12, 2000 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: Eligible Medicaid recipients and durable medical equipment suppliers

(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: A public hearing is scheduled for August 31, 2000 to receive public comments.
(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: A public hearing is scheduled for August 31, 2000 to receive public comments.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
1. First year following implementation: Anticipate a decrease in paperwork due to raising the prior authorization limit from $150 to $200.
2. Second and subsequent years: None
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Conservatively estimated at $3.7 million in additional costs to implement HB 202 of the 2000 General Assembly.
2. Continuing costs or savings: Conservatively estimated at $3.7 million in additional costs annually.
3. Annual factors increasing or decreasing costs: Depending on the level of utilization, this amount may be higher or lower based on SFY 2001 experience.

(b) Reporting and paperwork requirements: None
(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.55% equaling $2.26 million and state matching funds of 25.65% equaling $1.11 million will be expended. Additional funding for these changes were not included in the enacted biennium 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: A public hearing is scheduled for August 31, 2000 to receive public comments.
(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 governmental welfare of the geographical area in which implemented and on Kentucky: Access to nutritional supplements and food products for recipients with inherited metabolic disorders.
(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: Recipients with inherited metabolic disorders would be denied access to nutritional supplements and food products.

(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:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 1:826E

This emergency administrative regulation is being promulgated in accordance with KRS 13A.190(1)(e)3 to comply with 2000 Ky. Acts ch. 549 which requires an increase of reimbursement rates for dental services. This action must be taken on an emergency basis to comply with enacted legislation and to ensure a July 1, 2000 effective date. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(Emergency Amendment)

907 KAR 1:626E. Reimbursement of dental services.

RELATES TO: KRS 205.520, 42 CFR [44:96]; 447 Subpart B, 42 USC 1396a-d
EFFECTIVE: June 30, 2000
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the method for determining the amount payable by the cabinet for a [fees] dental service.

Section 1. Definitions. (1) "By report" or "BR" means a service or item for which a maximum allowance has not been established because the service or item is unilateral, unusual, variable, or new.
(2) "Department" means the Department for Medicaid Services or its designated agent.
(3) "Medically high risk" means a patient in one (1) of the following classifications:
(a) Heart disease;
(b) Respiratory disease;
(c) Chronic bleeding;
(d) Uncontrollable patient i.e., a person with a mental or emotional disorder; or
(e) Other e.g., car accident, high temperature, massive infection.
(4) "Prior authorization" or "PA" means approval for payment which shall be obtained from the department by a specified provider for a specified service for a specified recipient in order for the service to be covered under Medicaid.
(5) (2) "Usual and customary charges" means the uniform amount which the individual dentist charges in the majority of cases for a specific dental procedure or service.

Section 2. Reimbursement. (1) Except as specified in subsection (2) (or (6)) of this section or in Section 4 of this administrative regulation, the cabinet shall reimburse a participating dentist for a covered service provided to an eligible Medicaid recipient at the dentist's usual and customary actual billed charge up to the fixed upper limit per procedure established by the department in the dental services reimbursement schedule in Section 5 of this administrative regulation. [cabinet at seventy-eight (78) percent of the median billed charge using 1999 calendar year billed charges.]
(2) If there is no mean available for a procedure, or the cabinet determines that available data relating to the median for a procedure is unreliable, the cabinet shall set a reasonable fixed upper limit for the procedure consistent with the general array of upper limits for the type of service.
(3) A fixed upper limit not determined in accordance with the method established in subsection (1) (or (2)) of this section [due to consideration of other factors, such as recipient access] shall be determined in accordance with Section 4 of this administrative regulation.

Section 3. Hospital Inpatient Care. (1) A service provided in an inpatient setting [Hospitalized-inpatient care] shall be paid in the same manner as established in Section 2 of this administrative regulation; for services provided to an inpatient:
(a) It shall not include:
1. A dental service provided in the outpatient extended care; and
2. A home health unit of a hospital.
(b) A dentist submitting a claim for a service provided in an inpatient setting [Hospitalized-inpatient care benefit] shall agree to accept the Medicaid reimbursement rate as payment in full for the [service rendered that patient during that admission].
(c) A general dentist may submit a claim for a hospital inpatient service for a [the] patient termed "medically high risk."

Section 4. Reimbursement Exceptions. The following reimbursement procedure exception shall be paid at the lower of the provider's usual and customary actual billed charge or the fixed upper limit:
(1) A comprehensive orthodontic procedure shall require prior authorization. If an orthodontic procedure is prior authorized, the department [as referenced in section 2 of this administrative regulation; the following comprehensive orthodontic services] shall pay as follows:
(2) Except as specified in subsection (2) of this section, an [at a fixed fee):
(e) Orthodontic consultation, $112;
(f) The Medicaid reimbursement rate for an orthodontic consultation shall not exceed fifty-six (56) dollars if:
(a) Eighty-four (84) dollars and seventy (70) cents, except that the fixed fee shall be forty-two (42) dollars and thirty-five (35) cents, if;
(b) The provider is referring the recipient to a medical specialist;
(c) The prior authorization for orthodontic services is not approved; or
(d) A request for prior authorization of orthodontic services is not made;
(3) An [at] early phase for moderately severe or severe disabling malocclusion, $1,367+[996] for an orthodontist and $1,234+[998] for a general dentist;
(4) A service [as Services] for moderately severe disabling malocclusions, $1,825+[995] for an orthodontist and $1,659+[999] for a general dentist; and
(6) The upper limit for the following procedures shall be the fixed upper limit derived utilizing the methodology described in Section 2 of this administrative regulation increased by the following fixed percentages:

<table>
<thead>
<tr>
<th>Procedures</th>
<th>Percentage</th>
<th>GH Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Oral Exam</td>
<td>25%</td>
<td></td>
</tr>
<tr>
<td>Prophylaxis</td>
<td>20%</td>
<td></td>
</tr>
<tr>
<td>Amalgam</td>
<td>10%</td>
<td></td>
</tr>
<tr>
<td>Resin</td>
<td>7%</td>
<td></td>
</tr>
<tr>
<td>Prefabricated Stainless Steel Crown</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>Prefabricated Resin Crown</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>Pin Retention</td>
<td>40%</td>
<td></td>
</tr>
<tr>
<td>Pulp Capping (Direct)</td>
<td>40%</td>
<td></td>
</tr>
<tr>
<td>Pulpotomy (Therapeuetic)</td>
<td>40%</td>
<td></td>
</tr>
<tr>
<td>Root Canal</td>
<td>40%</td>
<td></td>
</tr>
<tr>
<td>Simple Extraction</td>
<td>5%</td>
<td></td>
</tr>
</tbody>
</table>

Section 5. Reimbursement Rates for Dental Services. Except as specified in Section 4 of this administrative regulation, the following reimbursement schedule shall apply to a dental service:

<table>
<thead>
<tr>
<th>Kentucky Medicaid Dental Services</th>
<th>Description</th>
<th>Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency call (trauma related injuries only)</td>
<td>$33</td>
<td></td>
</tr>
<tr>
<td>Comprehensive oral evaluation</td>
<td>$26</td>
<td></td>
</tr>
<tr>
<td>Intraoral complete series</td>
<td>$49</td>
<td></td>
</tr>
<tr>
<td>Intraoral perITAL, first film</td>
<td>$8</td>
<td></td>
</tr>
<tr>
<td>Intraoral perITAL, each additional film</td>
<td>$6</td>
<td></td>
</tr>
<tr>
<td>Bitewing, single film</td>
<td>$7</td>
<td></td>
</tr>
<tr>
<td>Bitewing, 2 films</td>
<td>$14</td>
<td></td>
</tr>
<tr>
<td>Bitewing, 4 films</td>
<td>$23</td>
<td></td>
</tr>
<tr>
<td>Panoramic film</td>
<td>$39</td>
<td></td>
</tr>
<tr>
<td>Cephalometric film</td>
<td>$47</td>
<td></td>
</tr>
<tr>
<td>Prophylaxis, 14 and over</td>
<td>$37</td>
<td></td>
</tr>
<tr>
<td>Prophylaxis, 13 and under</td>
<td>$37</td>
<td></td>
</tr>
<tr>
<td>Sealant per tooth (ages 5-29)</td>
<td>$15</td>
<td></td>
</tr>
<tr>
<td>Space maintainer, fixed unilateral</td>
<td>$104</td>
<td></td>
</tr>
<tr>
<td>Space maintainer, fixed bilateral</td>
<td>$202</td>
<td></td>
</tr>
<tr>
<td>Space maintainer, removable-unilateral</td>
<td>$134</td>
<td></td>
</tr>
<tr>
<td>Space maintainer, removable bilateral</td>
<td>$202</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 1 surface, primary</td>
<td>$38</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 2 surfaces, primary</td>
<td>$48</td>
<td></td>
</tr>
<tr>
<td>Service Description</td>
<td>Cost</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
<td>-------</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 3 surfaces, primary</td>
<td>$57</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 4 or more surfaces, primary</td>
<td>$67</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 1 surface, permanent</td>
<td>$38</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 2 surfaces, permanent</td>
<td>$50</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 3 surfaces, permanent</td>
<td>$59</td>
<td></td>
</tr>
<tr>
<td>Amalgam, 4 or more surfaces, permanent</td>
<td>$72</td>
<td></td>
</tr>
<tr>
<td>Resin, 1 surface, anterior</td>
<td>$44</td>
<td></td>
</tr>
<tr>
<td>Resin, 2 surfaces, anterior</td>
<td>$55</td>
<td></td>
</tr>
<tr>
<td>Resin, 3 surfaces, anterior</td>
<td>$56</td>
<td></td>
</tr>
<tr>
<td>Resin, 4 or more surfaces, anterior</td>
<td>$78</td>
<td></td>
</tr>
<tr>
<td>Resin, 1 surface, posterior primary</td>
<td>$44</td>
<td></td>
</tr>
<tr>
<td>Resin, 2 surfaces, posterior primary</td>
<td>$55</td>
<td></td>
</tr>
<tr>
<td>Resin, 3 or more surfaces, posterior primary</td>
<td>$66</td>
<td></td>
</tr>
<tr>
<td>Resin, 1 surface, posterior permanent</td>
<td>$44</td>
<td></td>
</tr>
<tr>
<td>Resin, 2 surfaces, posterior permanent</td>
<td>$55</td>
<td></td>
</tr>
<tr>
<td>Resin, 3 or more surfaces, posterior permanent</td>
<td>$66</td>
<td></td>
</tr>
<tr>
<td>Prefab stainless steel crown primary</td>
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<tr>
<td>Prefab stainless steel crown permanent</td>
<td>$103</td>
<td></td>
</tr>
<tr>
<td>Prefab resin crown</td>
<td>$87</td>
<td></td>
</tr>
<tr>
<td>Pin retention, per tooth, in add, to restoration</td>
<td>$13</td>
<td></td>
</tr>
<tr>
<td>Pulic cap direct</td>
<td>$17</td>
<td></td>
</tr>
<tr>
<td>Vinal pulpectomy</td>
<td>$52</td>
<td></td>
</tr>
<tr>
<td>Root canal therapy anterior</td>
<td>$211</td>
<td></td>
</tr>
<tr>
<td>Root canal therapy bicuspial</td>
<td>$256</td>
<td></td>
</tr>
<tr>
<td>Root canal therapy molar</td>
<td>$370</td>
<td></td>
</tr>
<tr>
<td>Apicoectomy anterior</td>
<td>$156</td>
<td></td>
</tr>
<tr>
<td>Apicoectomy, bicuspial first root</td>
<td>$156</td>
<td></td>
</tr>
<tr>
<td>Apicoectomy, molar first root</td>
<td>$155</td>
<td></td>
</tr>
<tr>
<td>Apicoectomy, per tooth each additional root</td>
<td>$197</td>
<td></td>
</tr>
<tr>
<td>Gingivectomy, gingivoplasty per quadrant</td>
<td>$259</td>
<td></td>
</tr>
<tr>
<td>Gingivectomy, gingivoplasty per tooth</td>
<td>$104</td>
<td></td>
</tr>
<tr>
<td>Periodontal scaling and root planing per quadrant</td>
<td>$78</td>
<td></td>
</tr>
<tr>
<td>Replace missing or broken teeth or denture</td>
<td>$31</td>
<td></td>
</tr>
<tr>
<td>Repair resin denture base</td>
<td>$47</td>
<td></td>
</tr>
<tr>
<td>Repair cast framework</td>
<td>$75</td>
<td></td>
</tr>
<tr>
<td>Repair broken teeth, per tooth or denture</td>
<td>$28</td>
<td></td>
</tr>
<tr>
<td>Relin complete maxillary denture</td>
<td>$99</td>
<td></td>
</tr>
<tr>
<td>Relin complete mandibular denture</td>
<td>$99</td>
<td></td>
</tr>
<tr>
<td>Transitional appliance upper</td>
<td>$246</td>
<td></td>
</tr>
<tr>
<td>Transitional appliance lower</td>
<td>$259</td>
<td></td>
</tr>
<tr>
<td>Nasal prosthesis</td>
<td>$2,035</td>
<td></td>
</tr>
<tr>
<td>Auricular prosthesis</td>
<td>$1,881</td>
<td></td>
</tr>
<tr>
<td>Facial prosthesis</td>
<td>$3,408</td>
<td></td>
</tr>
<tr>
<td>Obturator (temporary)</td>
<td>$863</td>
<td></td>
</tr>
<tr>
<td>Obturator (permanent)</td>
<td>$1,992</td>
<td></td>
</tr>
<tr>
<td>Mandibular resection prosthesis</td>
<td>$1,660</td>
<td></td>
</tr>
<tr>
<td>Speech aid-pediatric (13 and under)</td>
<td>$2,036</td>
<td></td>
</tr>
<tr>
<td>Speech aid-adult (14 and over)</td>
<td>$2,036</td>
<td></td>
</tr>
<tr>
<td>Palatal augmentation prosthesis</td>
<td>$1,850</td>
<td></td>
</tr>
<tr>
<td>Palatal lift prosthesis</td>
<td>$1,836</td>
<td></td>
</tr>
<tr>
<td>Oral surgical splint</td>
<td>$800</td>
<td></td>
</tr>
<tr>
<td>Unlisted maxilfacial prosthetic procedure</td>
<td>$98</td>
<td></td>
</tr>
<tr>
<td>Extraction, single tooth</td>
<td>$38</td>
<td></td>
</tr>
<tr>
<td>Extraction, each additional tooth</td>
<td>$35</td>
<td></td>
</tr>
<tr>
<td>Root removal, exposed roots</td>
<td>$41</td>
<td></td>
</tr>
<tr>
<td>Surgical removal of erupted tooth</td>
<td>$72</td>
<td></td>
</tr>
<tr>
<td>Removal of impacted tooth (soft tissue)</td>
<td>$98</td>
<td></td>
</tr>
<tr>
<td>Removal of impacted tooth (partially bony)</td>
<td>$138</td>
<td></td>
</tr>
<tr>
<td>Removal of impacted tooth (completely bony)</td>
<td>$166</td>
<td></td>
</tr>
<tr>
<td>Removal of impacted tooth (comp. bony or unusual)</td>
<td>$171</td>
<td></td>
</tr>
<tr>
<td>Surgical removal of residual tooth roots</td>
<td>$83</td>
<td></td>
</tr>
<tr>
<td>Oroantral fistula closure</td>
<td>$104</td>
<td></td>
</tr>
<tr>
<td>Surgical exposure of impacted or unerupted tooth</td>
<td>$98</td>
<td></td>
</tr>
<tr>
<td>Alveoplasty in conj, with extraction per quadrant</td>
<td>$78</td>
<td></td>
</tr>
<tr>
<td>Alveoplasty not in conj, with extraction per quadrant</td>
<td>$78</td>
<td></td>
</tr>
<tr>
<td>Excision of benign tumor</td>
<td>$57</td>
<td></td>
</tr>
<tr>
<td>Incision &amp; drainage of abscess (intraoral)</td>
<td>$52</td>
<td></td>
</tr>
<tr>
<td>Incision &amp; drainage of abscess (extraoral)</td>
<td>$62</td>
<td></td>
</tr>
<tr>
<td>Removal of foreign body</td>
<td>$155</td>
<td></td>
</tr>
<tr>
<td>Tempromandibular splint therapy</td>
<td>PA</td>
<td></td>
</tr>
<tr>
<td>Suture of recent small wound</td>
<td>$96</td>
<td></td>
</tr>
<tr>
<td>Frenulectomy</td>
<td>$129</td>
<td></td>
</tr>
<tr>
<td>Removable appliance therapy</td>
<td>$362</td>
<td></td>
</tr>
<tr>
<td>Fixed appliance therapy</td>
<td>$259</td>
<td></td>
</tr>
<tr>
<td>Consultation orthodontic exam and treatment plan</td>
<td>PA</td>
<td></td>
</tr>
<tr>
<td>Fixed appliance therapy</td>
<td>PA</td>
<td></td>
</tr>
<tr>
<td>Fixed appliance therapy (final third)</td>
<td>PA</td>
<td></td>
</tr>
<tr>
<td>Palliative visit (treatment of oral pain)</td>
<td>$21</td>
<td></td>
</tr>
<tr>
<td>Intravenous sedation</td>
<td>$122</td>
<td></td>
</tr>
<tr>
<td>Hospital call</td>
<td>$52</td>
<td></td>
</tr>
</tbody>
</table>

Section 6. Oral Surgeon. An oral surgeon shall be treated in the same manner as a physician for reimbursement purposes, and shall be subject to the terms and conditions of payment established [shown] in 907 KAR 3:010.

Section 7. [6:] Third-party Liability. Medicaid shall be the payor of last resort. Nonduplication of payments and third-party liability shall be in accordance with [governed by] 907 KAR 1:005.

Section 8. Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:559.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:871.

Section 9. Effective Date. The provisions of this administrative regulation shall be effective on July 1, 2000.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: June 9, 2000
FILED WITH LRC: June 30, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: All Medicaid recipients and dentists enrolled in the Medicaid Program.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

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

1. First year following implementation: None
2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $11 million in additional costs.
2. Continuing costs or savings: $11 million annually.
3. Additional factors increasing or decreasing costs: Depending on the level of utilization, this amount may be higher or lower based on
FY 2001 experience.
(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 70.05% equaling $7.8 million and state matching funds of 29.45% equaling $2.2 million will be expended. Authorization for this change is included in the enacted biennium budget; however, funding was not appropriated. The funding for this initiative is derived from a redirection of funds for current services. This redirection could result in inadequate funding for other Medicaid services. In the Department for Medicaid Services, it is difficult to control costs in any way other than through a reduction in services, eligibility or reimbursement rates should it become necessary.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide
(b) Kentucky: To be determined after the Notice of Intent public hearing, which will be held in accordance with KRS 13A requirements.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Promulgation of this administrative regulation would increase patient visits to Kentucky Medicaid dental providers in accordance with HB 532 of the 2000 General Assembly.
(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 government policy which may be in conflict, overlapping, or duplicating: None
(a) Necessity of proposed regulation in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(10) Any additional information or comments: None
(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY 907 KAR 1:631E

This emergency administrative regulation is being promulgated in accordance with KRS 13A.190(1)(a)(3) to comply with 2000 Ky. Acts ch. 549 which requires an increase in reimbursement rates for dispensing of ophthalmic services. This action must be taken on an emergency basis to comply with enacted legislation and to ensure a July 1, 2000 effective date. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(Emergency Amendment)

907 KAR 1:631E. Reimbursement of Vision Program services. 

RELATES TO: KRS 205.520, 42 CFR 440.40, 440.60, 447 Subpart B, 42 USC 1396a-d

EFFECTIVE: June 30, 2000
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. [Executive Order 56-669, effective July 1, 1996, reorganized the Cabinet for Human Resources and established 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 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 method for determining a reimbursement for a Vision Program service.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designated agent.
(2) "Ophthalmic dispenser" means an individual, including a physician, osteopath, optician, or optometrist, who is licensed to prepare and dispense lenses, spectacles, eyeglasses and related appurtenances in accordance with an original written prescription.

(3) [designated:]
(2) "Resource-based relative value scale [RBRVS] unit" or "RBRVS unit" means a value based on the service which takes into consideration the practitioners' work, practice experience, liability insurance, and a geographic factor based on the prices of staffing and other resources required to provide the service in an area relative to national average price.

Section 2. Reimbursement for Covered Procedures and Materials for Optometrists. (1) Reimbursement for a covered service, within the optometrist's scope of licensure, except materials or a laboratory service, shall be based on the optometrist's usual and customary actual billed charges up to the fixed upper limit per procedure established by the department using the Kentucky Medicaid fee schedule developed from a resource-based relative value scale (RBRVS) on parity with medical doctors as described in subsection (2) of this section. If an RBRVS based fee is not established, the department shall set a reasonable fixed upper limit for the procedure consistent with general Medicaid rate setting methodology.
(2) The RBRVS unit shall be multiplied by a dollar conversion factor to arrive at the fixed upper limit. With the exception of the following dispensing services, the department shall use the Kentucky conversion factor for "all other services" as established in 907 KAR 3:010, Section 2(2):
(a) Fitting of spectacles:
(b) Special spectacles fitting:
(c) Repair and adjustment of spectacles [tb).
(3) Reimbursement for eyeglasses or a part of eyeglasses shall be made at the optical laboratory cost of the materials not to exceed the upper limit for materials as established by the department. An optical laboratory invoice, or proof of actual acquisition cost of materials, shall be maintained in the recipient's medical records for post-payment review.
(4) Reimbursement for a covered clinical laboratory service shall be based on the Medicare allowable payment rates. For a laboratory service with no established allowable payment rate, the payment shall be sixty-five (65) percent of the usual and customary actual billed charges.

Section 3. Maximum Reimbursement for Covered Procedures and Materials for Ophthalmic Dispensers. (1) Reimbursement for a covered service within the ophthalmic dispenser's scope of licensure, including a dispensing service fee or a repair service fee, rendered by a licensed ophthalmic dispenser to an eligible recipient shall be the ophthalmic dispenser's usual and customary actual billed charges up to the fixed upper limit per procedure established by the department using the Kentucky Medicaid fee schedule developed from a resource-based relative value scale (RBRVS) on parity with medical doctors as described in subsection (2) of this section. If an RBRVS based fee is not established, the department shall set a reasonable fixed upper limit for the procedure consistent with general Medicaid rate setting methodology.
(2) With the exception of a dispensing service fee or a repair service fee, the reimbursement for an ophthalmic dispenser shall be based on the usual and customary actual billed charges.
service fee, the RBRVS unit shall be multiplied by a dollar conversion factor to arrive at the fixed upper limit. The department shall use the Kentucky conversion factor for "all other services" as established in 907 KAR 3:010, Section 2(2)(ib).

(3) Reimbursement for a dispensing service fee or a repair service fee shall be as follows:

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>92340 (Fitting of spectacles)</td>
<td>$33.00</td>
</tr>
<tr>
<td>92341 (Fitting of spectacles)</td>
<td>$38.00</td>
</tr>
<tr>
<td>92352 (Special spectacles fitting)</td>
<td>$33.00</td>
</tr>
<tr>
<td>92353 (Special spectacles fitting)</td>
<td>$38.00</td>
</tr>
<tr>
<td>92370 (Repair &amp; adjust spectacles)</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

(4) Reimbursement for eyeglasses or a part of eyeglasses shall be made in accordance with Section 2(3) of this administrative regulation, at the optical laboratory cost of the materials not to exceed the upper limit for materials as established by the department. A laboratory invoice or proof of actual acquisition cost of materials shall be maintained in the recipient's medical records for postpayment review.

Section 4. Reimbursement for Other Supplies and Materials. A supply or material, including cleaning fluid, cleaning cloth, or a carrying case, which is not eyeglasses or a replacement or repair part for eyeglasses, shall be provided in conjunction with and paid for as a part of the vision service rendered, and an additional charge shall not be made to the department or the recipient for this item.

Section 5. Limitations. (1) Program reimbursement for eyeglasses shall be inclusive. The cost of both laboratory materials and dispensing fees shall be billed to either the program or the recipient. If a portion of the amount is billed to or paid by the recipient, the department shall not be responsible for payment of the bill. This limitation shall not preclude the provider from billing a liable third party.

(2) A telephone consultation shall be excluded from payment.

(3) Contact lenses shall be excluded from payment.

(4) Safety glasses shall be covered if proof of medical necessity is documented.

(5) A prism, if medically necessary, shall be added within the cost of the lenses.

(6) A low-vision service shall be excluded from payment.

(7) A press-on prism shall be excluded from payment.

Section 6. Third Party Liability. Medicaid shall be the payor of last resort. The policy related to nonduplication of payments and third-party liability is established in 907 KAR 1:005.

Section 7. Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:550.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 8. Effective Date. The provisions of this administrative regulation shall be effective on July 1, 2000.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: June 9, 2000
FILED WITH LRC: June 30, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: All Medicaid recipients and ophthalmic dispensers enrolled in the Medicaid Program.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirements.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirements.

(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: $.47 million in additional expenditures

2. Continuing costs or savings: $.47 million annually

3. Additional factors increasing or decreasing costs: Depending on the level of utilization, the amount may be higher or lower based on FY2001 experience.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. Federal matching funds of 70.58% equaling $3.33 million and state matching funds of 29.42% equaling $1.14 million will be expended. Authorization for this change is included in the enacted biennium budget; however, funding was not appropriated.

The funding for this initiative is derived from a redirection of funds for current services. This redirection could result in inadequate funding for other Medicaid Services. In the Department for Medicaid Services, it is difficult to control costs in any way other than through a reduction in services, eligible for reimbursement rates should it become necessary.

The extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide

(b) Kentucky: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirements.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Promulgation of this administrative regulation would ensure that indigent Kentuckians who require medical services from ophthalmic dispensers will be able to access these services due to increased reimbursement and the associated increase in provider participation.

(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 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. Depurate 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 United States Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

STATEMENT OF EMERGENCY
907 KAR 1:790E

This emergency administrative regulation is being promulgated to comply with 2000 Ky. Acts ch. 549, Part IX Special Provisions, Government Operation, Health Services, 22., Medicaid Administration, g. Medicaid Service Category Expenditure Information In accordance with KRS 13A.190(1)(a). This action must be taken on an emergency basis to comply with the July 1, 2000 effective date required by the 2000 Regular Session of the General Assembly. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(Emergency)

907 KAR 1:790E. Medicaid service category expenditure information.

RELATES TO: KRS Chapter 45A, 304.17A, 304.38, 42 CFR 1905(a), 440.230, 441 Subpart B, 42 USC 1396d(r), 1396u-2

EFFECTIVE: June 30, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the provisions relating to Medicaid Service Category Expenditure Information for which payment shall be made by the Medicaid Program on behalf of both the categorically needy and the medically needy.

Section 1. Definitions. (1) "BBA" means the Balanced Budget Act of 1997 as amended and codified under 42 USC 1396u-2.

(2) "Department" means the Department for Medicaid Services or its designated agent.

(3) "HMO" means a risk-bearing managed care organization licensed under KRS 304.38.

(4) "MCO" means the risk-bearing managed care organization that provides physical or behavioral health services through provider networks on a prepaid capitated basis as either an HMO or a PSN.

(5) "Partnership" means a legal entity that satisfies the requirements of KRS 13A.190 Section 9, and while under contract with the department, in accordance with KRS Chapter 45A, agrees to provide or arrange for the provision of health services to Medicaid-eligible members on a prepaid capitation payment basis.

(6) "PSN" means a risk-bearing provider sponsored integrated health care delivery network managed care organization licensed under KRS 304.17A.


(2) A category of Medicaid service reporting requirement shall pertain to a managed care contract with the Section 1115 of the Social Security Act Waiver; Region 3 Partnership, or a BBA state plan amendment MCO.

(3) The following categories of service shall require reporting:
(a) Inpatient hospital;
(b) Physicians;
(c) Nursing facilities;
(d) Outpatient hospital;
(e) Home health;
(f) Durable medical equipment (DME);
(g) Family planning;
(h) EPSDT-screens;
(i) EPSDT-related;
(j) Laboratories;
(k) Dental;
(l) Nonemergency transportation;
(m) Ambulance;
(n) Vision;
(o) Hearing;
(p) Primary care (FQHC);
(q) Rural health;
(r) Qualified Medicare beneficiaries (QMBS);
s) Nurse practitioner/midwife;
t) ICF-MR;
u) Pharmacy;
w) Chiropractic services;
x) Community mental health centers;
y) Mental hospital;
z) Psychiatric residential treatment facilities (PRTF);
A) Renal dialysis;
B) Podiatry;
C) AIS-MR (support services);
D) Ambulatory surgical;
E) Home and community-based services;
F) Adult day care;
G) Model waivers;
H) Hospice;
I) Preventive;
J) Children with special health care needs;
K) Targeted case management - emotionally disturbed child;
L) Targeted case management - mentally ill adults;
M) Other lab/X-ray;
N) Nurse anesthetist;
O) Title V/DDS;
P) School-based services;
Q) Early intervention - First Steps;
R) Brain injury;
S) Impact Plus;
T) HANDS;
U) Home care waiver;
V) Personal care assistance waiver;
W) KCHIP.

Section 3. Effective Date. The provisions of this administrative regulation shall be effective on July 1, 2000.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: June 16, 2000
FILED WITH LRC: June 30, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez
(1) Type and number of entities affected: All entities seeking to procure a contract as a provider of Medicaid managed care health services.
(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: A public hearing is scheduled for August 31, 2000 to receive public comments.
(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: A public hearing is scheduled for August 31, 2000 to receive public comments.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
1. First year following implementation: In accordance with the legislative mandate, Medicaid managed care organizations will be requested to submit Medicaid expenditure data by category of service.
2. Second and subsequent years: Same as above.

- 440 -
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
   1. First year: $0 Budget neutral.
   2. Continuing costs or savings: $0
   3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: increased reporting to
   Interim Joint Committee on Appropriations and Revenue
(c) Assessment of anticipated effect on state and local revenues:
   None
(d) Source of revenue to be used for implementation and enforce-
   ment of administrative regulation: Federal and state matching
   funds. Federal matching funds of 70.55% equaling $0 and state
   matching funds of 29.45% equaling $0 will be expended.
(e) 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: A public hearing is scheduled for August 31, 2000 to
       receive public comments.
   (c) Whether a detrimental effect on environment and public
       health would result if not implemented: No
   (d) If detrimental effect would result, explain detrimental effect:
       None

(9) Identify any statute, administrative regulation or government
   policy which may be in conflict, overlapping, or duplication: None
   (a) Necessity of proposed regulation if in conflict:
   (b) If in conflict, was effort made to harmonize the proposed ad-
       ministrative regulation with conflicting provisions:
   (10) Any additional information or comments: None
   (11) TIERING: Is tiering applied? Tiering was not inappropriate in
   this administrative regulation because the administrative regulation
   applies equally to all those individuals or entities regulated by it. Dispar-
   rate treatment of any person or entity subject to this administrative
   regulation could raise questions of arbitrary action on the part of the
   agency. The "equal protection" and "due process" clauses of the
   Fourteenth Amendment of the U.S. Constitution may be implicated as
   well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 3:120E

This emergency administrative regulation is being promulgated to/comply with the chiropractic provisions of SB 294 in accordance with KRS 13A.190(a)(3). This action must be taken on an emergency basis to comply with the newly enacted chiropractic provisions of SB 294 and to ensure a July 14, 2000 effective date. This emergency admin-
istrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
(Emergency)

907 KAR 3:120E. Chiropractic services and payments.

RELATES TO: KRS Chapter 312, 42 CFR 440.230, 441 Subpart
B, 1905(a), 42 USC 1396(d)(r)
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.312,
205.620, 2000 Ky Acts ch. 290, sec. 1(11)
EFFECTIVE: June 30, 2000
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
department, by administrative regulation, to comply with any requirement
that may be imposed or opportunity presented by federal law for the
provision of medical assistance to Kentucky's indigent citizenry. This
administrative regulation establishes the provisions relating to chiro-
practic services for which payment shall be made by the Medicaid
Program on behalf of both the categorically needy and the medically
needy.

Section 1. Definitions. (1) "Chiropractic service" means the diag-
nosis and the therapeutic adjustment or manipulation of the subluxa-
tions of the articulations of the human spine and its adjacent tissues
performed by, and within the scope of licensure of, a licensed chiro-
practor in accordance with KRS 312.015 and 312.017.
(2) "Chiropractor" means an individual who is licensed to practice
chiropractic and who is enrolled as a provider with the Kentucky De-
partment for Medicaid Services.
(3) "Current procedural terminology code" or "CPT code" means
the identifying code used by the department for reporting a medical
service or procedure.
(4) "Department" means the Department for Medicaid Services or
its designated agent.
(5) "Medically necessary" or "medical necessity" means that a
covered benefit shall be:
(a) Provided in accordance with 42 CFR 440.230;
(b) Reasonable and necessary to identify, diagnose, treat, correct,
cure, palliate, or prevent a disease, illness, injury, disability, or other
medical condition, including pregnancy;
(c) Clinically appropriate in terms of amount, scope, and duration
based on generally accepted standards of good medical practice;
(d) Provided for medical reasons rather than primarily for the con-
venience of a recipient, caregiver, or provider;
(e) Provided in the most appropriate location, with regard to gen-
erally accepted standards of good medical practice, where the service
may, for practical purposes, be safely and effectively provided;
(f) Needed, if used in reference to an emergency medical service,
to evaluate or stabilize an existing emergency medical condition that is
found to exist using the prudent layperson standard; and
(g) Provided in accordance with early and periodic screening,
diagnosis, and treatment (EPSDT) requirements established in 42
USC 1396(d)(5), 42 CFR 1905(a), and 42 CFR 441 Subpart B, for
recipients under twenty-one (21) years of age.

Section 2. Covered Services. (1) A covered chiropractic service
shall include the following:
(a) An evaluation and management service;
(b) Chiropractic manipulative treatment;
(c) Diagnostic X-rays;
(d) Application of a hot or cold pack to one (1) or more areas;
(e) Application of mechanical traction to one (1) or more areas;
(f) Application of electrical stimulation to one (1) or more areas;
and
(g) Application of ultrasound to one (1) or more areas.
(2) A medically necessary chiropractic service shall be covered to
the extent, and subject to the service and reimbursement limitations,
that the same service is covered by the department for a physician
and shall be reported using:
(a) An evaluation and management CPT code;
(b) A chiropractic manipulative treatment CPT code;
(c) A diagnostic X-ray CPT code; or
(d) Physical modality application CPT codes for the following:
   1. Application of a hot or cold pack to one (1) or more areas;
   2. Application of mechanical traction to one (1) or more areas;
   3. Application of electrical stimulation to one (1) or more areas;
and
4. Application of ultrasound to one (1) or more areas.
(3) Coverage for chiropractic services shall be based on medical
necessity.
(4) Chiropractic services shall require prior authorization by the
department, and if requested by the department, additional document-
tation shall be provided to establish medical necessity for the prior
authorization.
Section 3. Reimbursement for Covered Services. (1) A charge for a chiropractic service submitted to the department for payment shall not exceed the usual and customary amount charged to a private-pay patient or third-party payor for an identical procedure or service.

(2) For reimbursement of a covered service, a chiropractor shall be paid in accordance with the physician fee schedule specified in 907 KAR 2:010.

Section 4. Conditions for Provider Participation. A participating chiropractor shall:

(1) Be licensed as a chiropractor in Kentucky or in the geographic location in which chiropractic services are provided;

(2) Have an active Medicare provider number; and

(3) Meet the requirements for provider participation in the Kentucky Medicaid Program in accordance with 907 KAR 1:671, 907 KAR 1:672 and 907 KAR 1:673.

Section 5. Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid recipient shall be in accordance with 907 KAR 1:553.

(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 6. Effective Date. The provisions of this administrative regulation shall be effective on July 14, 2000.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: June 9, 2000
FILED WITH LRC: June 30, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: 154 Chiropractic providers and all eligible Medicaid recipients.

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

(a) 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: A public hearing is scheduled for August 31, 2000 to receive public comments.

(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: A public hearing is scheduled for August 31, 2000 to receive public comments.

(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: Conservatively estimated at $1.5 million in additional costs.

2. Continuing costs: Conservatively estimated at $1.5 million annually.

3. Additional factors increasing or decreasing costs: Depending on the level of utilization, this amount may be higher or lower based on FY 2001 experience.

(b) Reporting and paperwork requirements: Increase in prior authorizations.

(c) Assessment of anticipated effect on state and local revenues: None

(d) 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 million and state matching funds of 29.45% equaling $.5 million will be expended. Additional funding for this change is not included in the enacted biennium budget. The lack of additional funding for these new services could result in inadequate funding for other Medicaid services. In the Department for Medicaid Services, it is difficult to control costs in any way other than through a reduction in services, eligible, or reimbursement rates should it become necessary.

(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: A public hearing is scheduled for August 31, 2000 to receive public comments.

(7) Assessment of alternative methods: reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of economic benefits:

(a) Identity effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Access to chiropractic services for a greater number of Medicaid recipients.

(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: Chiropractic services would be limited to the Medicare population. This regulation expands coverage to all Medicaid recipients.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments: None

(11) TIERING: Is tiering appropriate?

TIERING was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 3:140E

This emergency administrative regulation is being promulgated to establish the requirements for the Medicaid Program to cover and provide reimbursement for Health Access Nurturing Development Services (HANDS) provided by the Department for Public Health through a Title V agreement. This action must be taken on an emergency basis to ensure compliance with HB 706 of the 2000 General Assembly codified at KRS 211.690. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of infants of first-time parents in Kentucky because it could result in "infants' delayed start childhood development. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Children's Health Services
(Emergency)

907 KAR 3:140E. Coverage and payments for the Health Access Nurturing Development Services (HANDS) Program.

RELATES TO: KRS 205.520, 42 USC 1396a-d, 1396n(g)
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.560, 211.690.

NEECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has the responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet by administrative regulation to comply with any requirement that may be imposed, or opportunity presented by federal or state
regulation for the provision of medical assistance to Kentucky's indi-
gent citizenry. This administrative regulation establishes require-
ments for coverage and payment for Health Access Nurturing Devel-
opment Services (HANDS) provided through an agreement with the state Title
V agency, the Department for Public Health.

Section 1. Definitions. (1) "Department" means the Department for
Medicaid Services or its designated agent.
(2) "Title V agency" means the Department for Public Health.
(3) "HANDS" means health access nurturing development serv-
ces provided in accordance with 902 KAR 4:120E.
(4) "Recipient" means a Medicaid eligible individual.
(5) "Partnership" means an entity that meets the criteria estab-
lished in 907 KAR 1:705, Section 5, and under contract with the de-
partment in accordance with KRS Chapter 45A, agrees to provide, or
arrange for the provision of health services to members, on the basis
of prepaid capitation payments.
(6) "KenPAC" means the Kentucky Patient Access and Care
System which operates as primary care management system in
accordance with 907 KAR 1:320E.

Section 2. Covered Services. (1) Services shall be provided pur-
suant to an interagency agreement between the department and the
Title V agency.
(2) Except for a screening service as established in 902 KAR
4:120E, Section 4(1), HANDS services shall be provided to a recipient
who meets the eligibility requirements for HANDS as established in
902 KAR 4:120E, Section 2.
(3) Medicaid services to be provided shall be the case manage-
ment services described in 902 KAR 4:120E, Section 4(2) through (6).

Section 3. Provider Qualifications and Conditions for Participation.
(1) Services shall be provided by the Title V agency:
(a) Directly; or
(b) Indirectly through a subcontract that requires a subcontractor
to meet the provisions of 902 KAR 4:120E, Section 2.
(2) If a HANDS service is provided to a recipient who is a member of
a Medicaid managed care partnership, managed care organization
or KenPAC, a provider of service shall coordinate and exchange in-
formation with the recipient's primary care provider.

Section 4. Reimbursement. (1) Payments shall be based on the
cumulative cost of providing the service.
(2) An interim rate based on projected cost shall be used with a
settlement to cost after the end of the state fiscal year.
(3) A HANDS provider which meets the criteria in 902 KAR
4:120E, Section 3(2), shall have on file an approved cost allocation plan.
(4) Interim rates for services provided in accordance with 902
KAR 4:120E, Section 4(2) through (6), shall be based on the:
(a) Type of service;
(b) Personnel providing the service;
(c) Amount of time required to provide the service; and
(d) Costs related to providing the service, including:
1. Contacting other persons in agencies who may be familiar with
the family's circumstances;
2. Telephone contacts; and
3. Indirect costs, including:
   a. Utilities;
   b. Building space;
   c. Travel expenses; and
   d. Office administration.
(5) An annual cost report shall be submitted to the Department for
Medicaid Services within 180 days after the close of the fiscal year.
(6) Interim payments shall be adjusted to actual cost based upon
review and acceptance of the cost report by the department.
(7) The provider may submit for consideration an amended cost
report for a fiscal year up to twenty-four (24) months after the close of
the fiscal year.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: July 11, 2000

FILED WITH LRC: July 13, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: All children of first time
parents who are Medicaid recipients.
(2) Direct and indirect costs or savings on the:
   (a) Cost of living and employment in the geographical area
       in which the administrative regulation will be implemented, to the extent
       available from the public comments received: To be determined after
       the Notice of Intent public hearing which will be held in accordance
       with KRS Chapter 13A requirements.
   (b) Cost of doing business in the geographical area in which
       the administrative regulation will be implemented, to the extent
       available from the public comments received: To be determined after
       the Notice of Intent public hearing which will be held in accordance
       with KRS Chapter 13A requirements.
   (c) Compliance, reporting, and paperwork requirements, including
       factors increasing or decreasing costs: Depending on utilization, this
       amount may be higher or lower.
   (b) Reporting and paperwork requirements: DMS will need to
       comply with any reporting requirements established by the Early
       Childhood Development Authority.
   (4) Assessment of anticipated effect on state and local revenues:
       Local public health departments will increase their revenue due to
       providing an additional service.
   (5) Source of revenue to be used for implementation and en-
       forcement of administrative regulation. Federal funds authorized under
       the Social Security Act, Title XIX and Title XXI and matching funds
       from General Fund and Restricted Funds appropriations. The match
       funding for this program is included in the enacted budget for the De-
       partment for Public Health and will be transferred to DMS as needed.
       It is estimated that federal funds of $2m (70.55%) and matching funds
       of $.9m (29.45%) will be spent. Authorization but not funding for this
       program was included in the enacted budget for DMS and will there-
       fore, require a budget modification.
   (b) To the extent available from the public comments received, the
       economic impact, including effects of economic activities arising from
       administrative regulation, on:
   (a) Geographical area in which administrative regulation will be
       implemented: To be implemented statewide.
   (b) Kentucky: To be determined after the Notice of Intent public
       hearing which will be held in accordance with KRS Chapter 13A re-
       quirements.
   (7) Assessment of alternative methods, reasons why alternatives
       were rejected: No viable alternatives were identified.
   (8) Assessment of expected benefits:
       (a) Identify effects on public health and environmental welfare of
           the geographical area in which implemented and on Kentucky: The
           increase in case management services provided to first-time parents
           will increase the probability that their newborn will have normal early
           childhood development, will provide the parents additional parenting
           skills, access to community resources, early entry into prenatal care,
           and will increase child abuse and neglect.
       (b) State whether a detrimental effect on environment and public
           health would result if not implemented: Yes
       (c) If detrimental effect would result, explain detrimental effect:
           Failure to provide for payment for case management services to first-
           time parents could result in their newborns having developmental
delays.
   (d) 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:
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(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. Disparately treating any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY

921 KAR 1:400E

This emergency administrative regulation implements requirements of HB 218, 2000 Ky. Acts ch. 84. These requirements provide a new, more equitable procedure for calculating child support obligations by giving a deduction to the parent paying health insurance premiums. This emergency administrative regulation must be placed in effect immediately in order to amend the requirements of 921 KAR 1:400 in time to meet the deadline that is established by the Act. An ordinary administrative regulation would not allow sufficient time to meet the time frame. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

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

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Emergency Amendment)

921 KAR 1:400E. Establishment, review, and modification of child support and medical support orders.


EFFECTIVE: July 14, 2000
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children shall administer the Child Support Program pursuant to [in accordance with the] provisions of KRS 205.710 to 205.800. This administrative regulation specifies the requirements for the establishment, review, and modification of child support and medical support orders.

Section 1. Support Obligation Shall Be Established. (1) A child support and medical support obligation shall be established by:

(a) A court of competent jurisdiction; or
(b) An administrative order.

(2) The amount of the obligation shall be:

(a) The amount specified in Section 2(4) of this administrative regulation; or
(b) For a child support obligation administratively established by the cabinet, the amount determined by the child support guideline contained in KRS 403.212, as computed on:
1. Form CS-71, Worksheet for Monthly Child Support Obligation;
2. Form CS-71.1, Worksheet for Monthly Child Support Obligation Exception [for a child support obligation administratively established by the cabinet].

(3) The amount determined shall be for collection purposes. Any support payment collected shall reduce the amount of the obligation dollar for dollar.

(4) For a public assistance case and a nonpublic assistance case for which child support services are being provided, the cabinet shall use state statute and legal process in establishing the amount of a child support and medical support obligation, including KRS 405.430 and 454.220.

(5) In addition to the deductions as specified in KRS 403.212(2), an administratively or judicially imputed child support obligation shall be determined by:

(a) 100 percent of the income of the parent with whom the child resides, if:
1. There is no support order; or
2. There is a support order but there is no support obligation worksheet; or
3. A worksheet cannot be obtained; or
(b) That parent's portion of the total support obligation as indicated on the worksheet, if:
1. There is a support order; and
2. A copy of the child support obligation worksheet can be obtained.

(6) Within ninety (90) calendar days of locating a noncustodial parent, or obligor, the cabinet shall:

(a) Complete service of process; or
(b) Document unsuccessful attempts to serve process.

(7) If service of process has been completed, the cabinet shall, if necessary:

(a) Establish a child support obligation;
(b) Establish paternity; or
(c) Send a copy of any legal proceedings to the parties within fourteen (14) days of issuance.

(8) If a court or administrative authority dismisses a petition for support without prejudice, the cabinet shall, at that time, determine when to appropriately seek an order in the future.

Section 2. Administrative Establishment. (1) The cabinet may administratively establish a child support obligation or medical support obligation, or both if:

(a) Paternity is not in question;
(b) There is no existing order of support for the child;
(c) The noncustodial parent, or obligor, resides or is employed in Kentucky; and
(d) The noncustodial parent's, or obligor's, address is known.

(2) The cabinet shall determine the monthly support obligation in accordance with the Kentucky child support guideline as contained in KRS 403.212, or subsection (4) of this section.

(3) To gather necessary information for administrative establishment, the cabinet shall:

(a) Send to the custodial parent:
1. A financial questionnaire;
2. A child care expense questionnaire; and
3. A medical support verification request.

(b) Send to the nonparental custodian:
1. A nonparental custodian information request; and
2. A medical support verification request, if appropriate.

(c) Send to the noncustodial parent, or obligor:
1. An appointment letter;
2. A financial questionnaire;
3. A child care expense questionnaire; and
4. A medical support verification request.

(d) Send to the employer of the custodial parent, the nonparental custodian, or the noncustodial parent, or obligor, or both if both are employed, a wage information request:

(e) Issue an administrative subpoena to utility and cable companies; financial institutions; the custodial parent; the noncustodial parent; the noncustodial parent, or obligor; or the employer, pursuant to KRS 205.712(2)(k), (j), (n).

(f) If appropriate, request information from a certified consumer reporting agency as prescribed in KRS 205.7685. An obligor may contest a mistake of fact up to ten (10) days after receiving advance notice of the cabinet's request for a full credit report.

(4) In a default case, the cabinet shall set the obligation based on the K-TAP standard of need for the child or children as specified in 921 §964 KAR 2:016, Section 8(2).

(5) The child support obligation may be retroactively modified upward, without a showing of change in circumstance, if, within two (2) years of the establishment of the order, evidence of gross income is presented which would have established a higher amount of child
support pursuant to the child support guideline.  

(6) After the monthly support obligation has been determined, the cabinet shall:
(a) Serve the notice of monthly support obligation upon the non-custodial parent, or obligor, pursuant to [in accordance with] KRS 405.440; and
(b) Provide the other concerned parties with a copy of the notice within fourteen (14) days of the noncustodial parent's, or obligor's, refusal or acceptance of the notice.

(7) Pursuant to [in accordance with] KRS 405.430(5) (f), the cabinet may modify the monthly support obligation established by the cabinet.

(8) The cabinet shall not administratively modify any obligation that [which] was established by a court of competent jurisdiction.

Section 3. Review and Adjustment of Child Support and Medical Support Orders. (1) The cabinet shall have a written and publicly available review and adjustment plan for child support orders.

(2) The cabinet may review and adjust a child support obligation:
(a) Upon the request of the cabinet in public assistance cases; or
(b) Upon the request of either parent.

(3) An administrative or nondispute administrative case shall be reviewed at the request of either parent, nonparental custodian, or another person or entity that may have standing to request a modification subject to the child support order.

(4) Every thirty-six (36) months, the cabinet shall notify each parent subject to an order of the right to request a review.

(5) Within fifteen (15) calendar days of receipt of a review request, the cabinet shall determine if a review should be conducted.

(6) The cabinet shall notify each parent subject to a child support or medical support order of the review thirty (30) days prior to the review commencement.

(7) Within 180 days of determining that a review should be conducted, or of locating the nonrequesting parent, the cabinet shall:
(a) Send a notice to each parent that a review will be conducted;
(b) Conduct the review;
(c) Send a notice of the result; and
(d) Modify the order or determine that there will be no change and notify the noncustodial parent, or obligor; and
(e) Provide the other concerned parties with a copy of the modified notice within fourteen (14) days of the noncustodial parent's, or obligor's, refusal or acceptance of the modified notice.

Section 4. Appeal Procedures. (1) A parent, or another person or entity that has standing or his authorized representative may request and be granted relief by a dispute hearing pursuant to [in accordance with] KRS Chapter 13B.

(2) A request shall be made to the cabinet:
(a) In writing;
(b) In person;
(c) Orally, but reduced to writing within the time frames as specified in subsection (3) of this section.

(3) The written request for a dispute hearing shall be considered timely if:
(a) Made within twenty (20) days of receipt of an initial notice of monthly support obligation;
(b) Made within twenty (20) days after the parent is notified that the initial support obligation will be upheld;
(c) Made within twenty (20) days of receipt of a notice of lien;
(d) Made within thirty (30) days of receipt of a modified notice of monthly support obligation; or
(e) Made after thirty (30) days but before fifty (50) days have passed since the parent requested a dispute hearing, but the cabinet has not acted upon the request.

(4) If the request is not made within the time period specified in subsection (3) of this section, the parent shall show good cause for the late request. A good cause reason shall include:
(a) A parent being away from home during the entire filing period;
(b) The parent's inability to read the notice of monthly support obligation; or
(c) The parent's incapacity due to a serious illness during the entire filing period.

(5) The parent or another person or entity having standing to request modification or his authorized representative may review case material pertinent to the reason for the dispute and may present witnesses at the hearing.

(6) If the objection is being filed on an initial notice of monthly support obligation, the objection shall be stayed pursuant to [as specified in] KRS 405.450(2).

(7) If the objection is being filed on a proposed modification of an existing obligation, or a decision that the existing obligation should not be changed, the amount on the prior notice is enforceable and that amount shall be paid while the hearing is pending.

(a) If the parent or another person or entity having standing to request a modification, or his authorized representative prevails, the cabinet shall promptly return to the obligor any overpayment made since the hearing was requested.

(b) If the cabinet prevailed, the obligation amount shall be retroactive to the effective date on the notice of monthly support obligation.

(8) The parent or another person or entity having standing to request a modification, or his authorized representative may withdraw the hearing request by writing to the child support office or the Hearing Branch in the Department for Community Based Services, Division of Family Support, Hearing Branch.

(9) If the parent or another person or entity having standing to request modification, or his authorized representative fails to appear at the hearing, the Hearing Branch may allow the parent to reschedule the hearing.

(a) The parent or another person or entity having standing to request modification or his authorized representative shall be notified by mail that he has ten (10) days to show good cause for failing to appear or the action shall be dismissed.

(b) If the parent or another person or entity having standing to request modification or his authorized representative does not reschedule or show good cause, the hearing officer shall dismiss the action.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) 45 CFR 70.6(a)(3) "Notice of Monthly Support Obligation*, edition 10/98; *(4055 Edition); Cabinet for Families and Children; and
(b) CS-71[1] "Commonwealth of Kentucky, Worksheet for Monthly Child Support Obligation", edition 7/00; and
(c) CS-71.1 "Commonwealth of Kentucky, Worksheet for Monthly Child Support Obligation Exception*, edition 7/00. *(7984 Edition); Cabinet for Families and Children.)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky, 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DIEITRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 14, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Casy G. Mobley, Director
(1) Provide a brief summary of:
(a) What this administrative regulation does: This emergency administrative regulation implements provisions of SB 218, 2000 Ky. Acts ch. 64, which require giving a deduction to the parent who pays health insurance premiums when calculating the monthly obligation amount. The act also entitles a parent who has 100% of the combined monthly adjusted parental gross income to deduct the entire amount of paid health insurance premiums from gross income.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary to meet the deadline that is established by SB 218, 2000 Ky. Acts ch. 64, which becomes effective July 14, 2000. 45 CFR 302.56(e) requires states to review child support guidelines and review, if appropriate, every 4 years.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This emergency administrative regulation implements provisions of SB 218, 2000 Ky. Acts ch. 64, which require giving a deduction to the parent who pays health insurance premiums when calculating the monthly obligation amount and entitles a parent
who has 100% of the combined monthly adjusted parental gross income to deduct the entire amount of paid health insurance premiums from gross income by revising the incorporated Form CS-71, Obligation Worksheet, and by incorporating a new Form CS-71.1 for the exception.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation will comply with SB 218, 2000 Ky. Acts ch. 64, by providing requirements for the new procedures for calculating a monthly obligation amount and by incorporating by reference the revised CS-71, Obligation Worksheet, and the new CS-71.1, Obligation Worksheet Exception.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) the amendment will change this existing administrative regulation: This emergency amendment will add new obligation calculation provisions to Section 2 of the administrative-regulation, incorporate the revised CS-71, Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation, and also incorporate the new CS-71.1, Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation Exception.

(b) The necessity of the amendment to this administrative regulation: This emergency administrative regulation is necessary to meet the deadline that is established by SB 218, 2000 Ky. Acts ch. 64, effective July 14, 2000, which provides for the new obligation calculation procedures. 45 CFR 303.101(e) requires states to review and revise, if appropriate, child support guidelines every 4 years.

(c) How the amendment conforms to the content of the authorizing statutes: This emergency administrative regulation implements provisions in SB 218, 2000 Ky. Acts ch. 64, by requiring a deducation for the parent who pays health insurance premiums when calculating the monthly obligation amount. It also entitles a parent who has 100% of the combined monthly adjusted parental gross income to deduct the entire amount of paid health insurance premiums from gross income.

(d) How the amendment will assist in the effective administration of the statutes: This emergency administrative regulation will comply with SB 218, 2000 Ky. Acts ch. 64, by providing requirements for the new procedures for calculating a monthly obligation amount and by incorporating by reference the revised CS-71, Obligation Worksheet, and the new CS-71.1, Obligation Worksheet Exception.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It is not possible to determine the number of individuals who will be affected by this emergency administrative regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Implementation of the provisions of this emergency administrative regulation will provide a more equitable means of calculating child support obligations by giving a deduction to the parent who actually pays the health insurance premium.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No cost involved.

(b) On a continuing basis: No cost involved.

(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: NA

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees involved.

(9) TIERING: Is tiering applied? Tiering was not applied because the Child Support Program requires uniformity in the application of policy as specified in 45 CFR 302.33(c).

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This regulation contains requirements of the contracting county attorneys; and therefore, does affect local governments by requiring use of new procedures to calculate child support obligations.

3. State the aspect of service of local government to which this administrative regulation relates. This regulation relates to the establishment, review and modification of child support and medical support orders for the child support program.

4. How does this administrative regulation affect the local government any service it provides? This regulation requires the contracting county attorneys to use new procedures to calculate child support obligations.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the Federal mandate. 45 CFR 303.101(e) requires the review and revision, as appropriate, of the child support guidelines every four years.

2. State compliance standards. There are no differing or additional state compliance standards. Minimum or uniform standards contained in the federal mandate. This administrative regulation provides requirements of the child support agency in the establishment and modification of child support orders, and medical support orders.

3. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate, No.

4. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

STATEMENT OF EMERGENCY

522 KAR 1:050E

This emergency administrative regulation is being amended to: expand the criteria that specifies when a child may be considered "special needs"; specify the requirements for receipt of adoption assistance at the medically fragile or family treatment home rate; specify that adoption assistance may include payment for extraordinary medical expenses related to the child's special needs which existed prior to the adoption and are not reimbursable by another source; and incorporate by reference the OOHCA-1256, Adoption Assistance Agreement. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation will be filed with the Regulations Compiler at the same time this emergency administrative regulation is filed.

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

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Emergency Amendment)

522 KAR 1:050E. Approval of adoption assistance.

RELATES TO: KRS 1948.050(1), 199.555, 199.557, 42 USC 673
STATUTORY AUTHORITY: KRS 1948.050(1), 199.555(10), 42
USC 673[-E9-98-79H]

EFFECTIVE: July 13, 2000

NECESSITY, FUNCTION, AND CONFORMITY: This administrative
regulation is required by 42 USC 673 and KRS 1948.050(1) and 199.555(10). It
serves to set forth guidelines for the implementation of the law on
state funded adoption assistance and federal adoption assistance.

Section 1. (1) The Secretary of the Cabinet for Families and Children shall make the decision to pay adoption assistance for the adoption of a particular child.

(2) The decision to provide adoption assistance shall be made in the best interest of the child.

(3) Adoption assistance shall be:

(a) Primarily for the benefit of the child and not the adoptive parent(s); and

(b) Limited to a special needs child.

(4) A special needs child shall include a child for whom [an] adoptive placement without financial assistance is unlikely because of difficulty
to find because the child:
(a) Has a physical or mental disability;
(b) Has an emotional or behavioral disorder;
(c) Has a recognized risk of physical, mental or emotional disorder;
(d) Is a member of a sibling group in which the siblings are placed together;
(e) Has had previous adoption disruption or multiple placements;
(f) Is an African American child two (2) years old or older; or
(g) Is age seven (7) or older and has a significant emotional attachment or psychological tie to his or her foster family and the cabinet has determined that it would be in the child’s best interest to remain with the family. [of:
(1) Age:
(2) A sibling group of three (3) or more children;
(3) A physical disability;
(4) A mental condition;
(5) An emotional problem requiring counseling;
(6) Physical or sexual abuse; or
(7) A background that includes a mental illness which is hereditary in nature and the future impact is documented by a genetic evaluation.]

Section 2. (1) A child considered for state-funded adoption assistance shall:
(a) Be committed to the Cabinet for Families and Children; and
(b) Not have a parent with a legal claim to his or her custody.
(2) A child considered for federal adoption assistance shall:
(a) Meet the eligibility criteria established in 42 USC 673 at the time the adoption proceedings are initiated; and
(b) Not have a parent with a legal claim to his or her custody.

Section 3. Parents receiving a child eligible for adoption assistance shall meet the same standards as those applied to other adoptive applicants.

Section 4. (1) An agreement setting forth the scope and limits of the adoption assistance shall be signed by the adoptive parents and the Secretary of the Cabinet for Families and Children or his designated representative.
(2) The adoption assistance shall:
(a) Begin on the date the order of adoption is entered; and
(b) Continue until the child reaches:
1. The age of majority; or
2. Age nineteen (19), if enrolled in a state or federal educational program; or
3. Age twenty-one (21), if disabled and receiving supplemental security income and enrolled in a state or federal educational program.
(3) If there is a change in the family situation or the needs of the child, the adoption assistance may be changed accordingly.
(4) The adoption assistance specified in the OHC-125 Adoption Assistance Agreement shall not exceed the amount which would be paid for foster care for the same child, including the medically fragile and family treatment home rates established by the Department for Community-Based Services. Adoption assistance may also include:
(a) Payment for extraordinary medical expenses related to the child’s special needs that:
1. Exist prior to the adoption; and
2. Are not reimbursable by another source; or
(b) Nonrecurring adoption expenses incurred in the adoption of a child who is considered special needs;
(5) An adoptive parent who receives the
(a) Advanced rate shall meet the annual requirement pursuant to 922 KAR 1:350, Section 18(4)(c);
(b) Medically fragile rate shall meet the annual requirement pursuant to 922 KAR 1:350, Section 5(5); or
(c) Family treatment home rate shall meet the annual requirement pursuant to 922 KAR 1:350, Section 7(5).
(6) If the amount of adoption assistance is greater than the special needs rate, at each renewal there shall be:
(a) A review of the child’s needs to determine if the child would receive the higher rate, if still in foster care; and
(b) Verification that the adoptive parents meet the same training requirements as foster parents to receive the higher rate.

Section 5. Annual contact with the adoptive family shall be made by mail or home visit to determine if the level of adoption assistance continues to be appropriate to the needs of the child.

Section 6. The number of adoption assistance cases shall be limited by available funds for the adoption assistance program.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

Dietra Paris, Commissioner
Hiren Desai, Attorney
Viola P. Miller, Secretary
APPROVED BY AGENCY: July 10, 2000
FILED WITH LRC: July 13, 2000 at 9 a.m.

REGULATORY IMPACT ANALYSIS
Agency Contact Person: Cathy G. Mobley, Director
(1) Type and number of entities affected: The entities affected include federal and state children anticipated to qualify for adoption assistance upon amendment of the "special needs" criteria. The total number of children anticipated to qualify for adoption assistance upon amendment is 240. The total number of children who currently receive adoption assistance is 1,750.
(2) Direct and indirect cost or savings to those affected: None
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the Notice of Intent is published on this administrative regulation.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the Notice of Intent is published on this administrative regulation.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition)
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:
1. First year: $604,000 increased costs to the cabinet to expand the criteria for the definition of special needs children. Continuing cost or savings: $1,722,400 increased costs to the cabinet to maintain adoption assistance for families who receive this subsidy and approve families who adopt special needs children.
2. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(4) Assessment of anticipated effect on state and local revenues: There will be an impact on state revenues of 56% of the total costs to the administrative body.
(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The portion of the total cost to the administrative body is 56% state funds, 42% federal funds.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation:
(a) Geographical area in which administrative regulation will be implemented: To be determined after the Notice of Intent is published on this administrative regulation.
(b) Kentucky: The same as (6)(a).
(7) Assessment of alternative methods; reasons why alternatives were rejected: None
(8) Assessment of expected benefits: The benefit from amending this administrative regulation will be the removal of potential barriers to adoption by expanding the availability of adoption assistance to a greater number of families who adopt special needs children.
(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: Not applicable.
(9) Identity any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: None
(10) Any additional information or comments: None
(11) TIERING: Is tiering applied? No. Tiering is not required as these policies will become effective statewide as the cabinet implements the new criteria for special needs pursuant to this emergency administrative regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
2. USC 673

State compliance standards. In order to comply with the requirements of the above referenced mandate, as well as KRS 194B.050(1) and 199.555, this administrative regulation is amended to:

- Expand the criteria that specifies when a child may be considered "special needs;"
- Specify the requirements for receipt of adoption assistance at the medically fragile or family treatment home rate;
- Specify that adoption assistance may include payment for extraordinary medical expenses related to the child’s special needs which existed prior to the adoption and are not reimbursable by another source; and
- Incorporate by reference the OOH-1268, Adoption Assistance Agreement.

3. Minimum or uniform standards contained in the federal mandate. Pursuant to 42 USC 673, the state agency responsible for the adoption program shall clarify the description of a special needs child.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities, than those required by the federal mandate. This administrative regulation imposes no stricter requirements than those of federal or state mandates.

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

STATEMENT OF EMERGENCY
922 KAR 1:360E

This emergency administrative regulation is being amended to: change the title from private child care, levels of care, to private child care placements, levels of care and payment; establish, to the extent funds are available, a new rate setting methodology and rates of payment for the care of a child who is placed in the cabinet in a private child-caring facility or placed in out-of-home care by a child-placing agency; establish the rate of payment for emergency shelter care; clarify the rate of payment for care of adolescents placed in a pregnant and teen parent program and establish the rate of payment for children of adolescents; establish a basic rate of payment for foster care services provided by parents who contract with a child-placing agency; establish the rate of payment for therapeutic foster care services provided by parents who contract with a child-placing agency; implement the establishment of statewide placement coordinators pursuant to KRS 199.801 to determine and expedite the placement of children; and make necessary corrections to comply with KRS Chapter 13A.

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

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

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Emergency Amendment)

922 KAR 1:360E. Private child care placements, levels of care and payment.

RELATED TO: KRS 199.640-199.670, 199.801, 605.090, 610.110, 209.020(2)


EFFECTIVE: July 14, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.641 authorizes the cabinet to establish the rate of reimbursement for child-care facilities which is consistent with the level of service provided. Reimbursement for a child placed in out-of-home care by a child-placing agency shall be consistent with the rate paid to a child-care facility and based on the level and quality of service provided. (Executive Order 99-662, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Services and the Child Welfare Program under the Cabinet for Families and Children.) This administrative regulation establishes a five (5) level reimbursement system based on the needs of the child with a reimbursement rate for each level. The function of this administrative regulation shall be to establish procedures whereby each child shall be evaluated to assure classification in the appropriate level of care.

Section 1. Definitions. (1) "Cabinet" is defined at KRS 209.020(2).
(2) "Commissioner" means the Commissioner or designee of the Department for Community-Based Services.
(3) [68] "Department" is defined at [means the Department for Community-Based Services as defined in] KRS 199.641(1(c).
(4) [69] "Gatekeeper" means the department or agent responsible for making a clinical determination of the level of care necessary to meet a child’s treatment and service needs.
(5) "Index factor" means a calculation:
(a) Derived from time-study data;
(b) Based on the relative amount of treatment delivery provided at each level of care. The median level shall be established as 1.00 and the other levels be a factor of the median level.
(6) "Model program cost analysis" means a report that determines the statewide median cost for each licensed program category of service provided by a child-caring facility pursuant to 2000 Ky. Acts ch. 307.
(7) [69] "Referral packet" means the required forms to be submitted to the gatekeeper and a private child care provider [providers] to determine level of care and placement and contains the following forms:
(a) OOH-885 [BSS-886], Private Child Care Client Inter-Agency Referral;
(b) OOH-885A [BSS-886A], Application for Referral toPrivate Child Care; and
(c) Achenbach Child Behavior Checklist for a child whose IQ is seventy (70) or above; or
(d) A comparable instrument identified by the cabinet or gatekeeper for a child whose IQ is below seventy (70).
(8) "Time study" means the process of reporting work performed by an employee of a child-caring facility and child-placing agency pursuant to 2000 Ky. Acts ch. 307. [And if a child has been assessed for youth services.]
(9) [69] "Utilization review" means during a child’s placement each child’s case record [records] and existing documentation shall be examined to identify the child’s current level of functioning and assign the appropriate level of care.

Section 2. Levels of Care. The department shall establish a five (5) level reimbursement system based on the needs of a child in the custody of the cabinet. The rate for [care: Rates of] each level of care is determined according to a model program cost analysis that is calculated by multiplying the median cost by the index factor for each level [were based upon the available Department for Community-Based Service budget divided by the average number of children per day at each level].

- 448 -
(1) The rate for Level I shall be forty-eight (48) dollars and nineteen (19) cents per day. A Level I child requires a routine home environment that:
   (a) Provides maintenance;
   (b) Provides guidance;
   (c) Provides supervision to meet the needs of the child; and
   (d) Promotes the emotional and physical well-being of the child. [Level I children require a routine home environment which provides maintenance, guidance and supervision to meet the needs of the child and ensures the emotional and physical well-being of the child. The rate for Level I shall be forty-eight (48) dollars and sixty-three (63) cents per day.]

(2) The rate for Level II shall be fifty-eight (58) dollars and fifty-two (52) cents per day. A Level II child:
   (a) May engage in nonviolent antisocial acts, but be capable of meaningful interpersonal relationships; and
   (b) Requires supervision in a structured supportive setting with:
      1. Counseling available from professional or paraprofessional staff;
      2. Educational support; and
      3. Services designed to improve development of normalized social skills.

   [Level II children may engage in nonviolent antisocial acts, but be capable of meaningful interpersonal relationships and require supervision in a structured supportive setting with counseling available from professional or paraprofessional staff, educational support, and services designed to improve development of normalized social skills. The rate for Level II shall be sixty (60) dollars and thirteen (13) cents per day.]

(3) The rate for Level III shall be $106.71 per day. A Level III child may:
   (a) Engage in occasional violent acts;
   (b) Have superficial or fragile interpersonal relationships;
   (c) Require supervision in a structured, supportive environment where level of supervision and support may vary from low to moderate proportional to the child's ability to handle reduced structure;
   (d) Occasionally require intense levels of intervention to maintain the least restrictive environment; and
   (e) Require a program which is flexible enough to allow:
      1. Extended trials of independence when the child is capable; and
      2. A period of corrective and protective structure during relapse.

   [Level III children may engage in occasional violent acts and may have superficial or fragile interpersonal relationships and require supervision in a structured, supportive environment where level of supervision and support may vary from low to moderate proportional to the child's ability to handle reduced structure. These children may occasionally require intense levels of intervention to maintain the least restrictive environment and require a program which is flexible enough to allow both extended trials of independence when the child is capable and periods of corrective and protective structure during relapse. The rate for Level III shall be ninety-two (92) dollars and fifty-three (53) cents per day.]

(4) The rate for Level IV shall be $130.80 per day. A Level IV child:
   (a) Has physical and emotional needs;
   (b) May be at moderate risk for causing harm to:
      1. Himself; or
      2. Others;
   (c) Requires a structured supportive setting with:
      1. Therapeutic counseling available by professional staff;
      2. Physical, environmental, and a treatment program designed to improve social, emotional, and educational adaptation behavior. [Level IV children have both physical and emotional needs and may be at moderate risk for causing harm to themselves and others and require a structured supportive setting with therapeutic counseling available by professional staff and physical, environmental, and treatment programs designed to improve social, emotional, and educational adaptation behavior. The rate for Level IV shall be $130.80 per day.]

   (d) Presents a severe risk of causing harm to:
      1. Himself; or
      2. Others; and
   (e) Requires Level IV services and programming and a:
      1. Highly structured program with twenty-four (24) hour supervision; or
      2. Specialized setting that can safely and effectivley care for a severe and chronic medics condition complicated by a behavioral disorder or emotional disturbance. [Level IV children require a highly structured program with twenty-four (24) hour supervision and a specialized setting which can safely and effectively care for severe and chronic medical conditions complicated by behavioral disorders or emotional disturbance. The rate for Level IV shall be $140.50 per day.]

Section 3. Emergency Shelter Care. (1) An emergency shelter child-caring facility shall meet the requirements of 922 KAR 1:380. The rate for emergency shelter care shall be:
   (a) Ninety-nine (99) dollars and eighty-seven (87) cents per day for a child-caring facility with a treatment license; and
   (b) Eighty-seven (87) dollars and eighty-three (83) cents per day for a child-caring facility without a treatment license.

(2) If a child in a treatment placement disrupts and the child enters an emergency shelter child-caring facility with a treatment license, the emergency shelter child-caring facility shall:
   (a) Receive a rate consistent with the child's assigned level of care during the previous placement; or
   (b) If the child is Level II or lower, receive a rate not less than ninety-nine (99) dollars and eighty-seven (87) cents per day; and
   (c) Adhere to the child's treatment plan.

(3) If a cabinet social services worker determines that a child without an assigned level of care shall remain in an emergency shelter child-caring facility longer than thirty (30) days, the social services worker shall make a referral to the gatekeeper by the 20th day of placement for assignment to an appropriate level of care. On the 31st day of continuous emergency shelter care, the emergency shelter child-caring facility with a treatment license shall:
   (a) Receive a rate consistent with the assigned level of care for residential placement; and
   (b) Adhere to the child's treatment plan.

Section 4. Pregnant and Parenting Teen Programs. A child-caring facility with a pregnant and parenting teen program shall receive:
   (1) A rate consistent with the assigned level of care for the adolescent parent; and
   (2) Twenty-one (21) dollars and ninety (90) cents per day for the child of an adolescent parent if the child is committed to the cabinet.

Section 5. Foster Care. (1) A child-placing agency providing foster care services shall receive a basic rate of forty (40) dollars per day.

(2) A child-placing agency providing therapeutic foster care shall meet the requirements of 922 KAR 1:310, Sections 9 and 10. The rate for therapeutic foster care services shall be basic to the child's assigned level of care.

(3) The rate for Level I therapeutic foster care shall be seventy (70) dollars per day.

(4) The rate for Level II therapeutic foster care shall be seventy (70) dollars per day.

(5) The rate for Level III therapeutic foster care shall be seventy-six (76) dollars and seventy-eight (78) cents per day.

(6) The rate for Level IV therapeutic foster care shall be ninety-four (94) dollars and eleven (11) cents per day.

(7) The rate for Level V therapeutic foster care shall be $131.26 per day.

Section 6. Role of the Gatekeeper. The gatekeeper shall be responsible for:
   (1) Assessing each child-caring facility to determine what levels of care are provided;
   (2) Evaluating each child referred by the department or currently in a child-caring facility or child-placing agency placement to determine classification in the appropriate level of care;
   (3) Reevaluating each child within six (6) months after placement in a facility or child-placing agency placement, and every three (3) months thereafter if the child is in a private child care residential...
placement or every six (6) months thereafter if the child is in a foster care placement, at which time the child may be reassigned to another level of care or recommended for placement outside the level of care system:

(a) If a child is reassigned to a lower level by the gatekeeper and the child is remaining in the same child-caring facility or child-placing agency placement, the rate for the lower level of care shall be effective three (3) days from the date the materials for the utilization review were received by the gatekeeper or the day after the utilization due date, whichever is later [reassigned level is made]. If the child is placed in another child-caring facility or another child-placing agency placement, the rate shall be effective on the day the child is placed; [c]

(b) If a child is reassigned to a higher level of care by the gatekeeper and the child is remaining in the same child-caring facility or child-placing agency placement, the rate for the higher level of care shall be effective the day after the materials for the utilization review were received by the gatekeeper or the day after the utilization due date, whichever is later [reassigned level is made]. If the child is placed in another child-caring facility or another child-placing agency placement, the rate shall be effective on the day the child is placed; [c]

(c) If, after the first six (6) months and before the next scheduled utilization review, the child-caring facility determines a child may be transitioned to a lower level of care, the rate for the current assigned level shall become effective until the next scheduled utilization review of the lower level of care is therapeutic foster care, [independent living, or other alternative placement,] the facility shall notify the department; [c]

(d) If the child-caring facility determines a child is beyond the facility's or child-placing agency's capacity to provide care, or there is new information previously not considered by the gatekeeper, a request for a redetermination may be made to the gatekeeper prior to the next utilization review; [c]

1. After a redetermination is completed by the gatekeeper, the child-caring facility or child-placing agency and department shall be notified of the results; [c]

2. If the child-caring facility or child-placing agency disagrees with a redetermination made by the gatekeeper, a request for dispute resolution shall be submitted in writing to the department as governed by 522 KAR 6:040, Administrative regulations; [c]

3. (4) Monitoring each placement for quality assurance as part of the reevaluation for each child within six (6) months of the placement and every three (3) months thereafter for each child in a private child care residential placement or every six (6) months thereafter for each child in a foster care placement. The gatekeeper shall:

(a) Review the extent to which services provided are in compliance with the child's treatment plan;

(b) Facility placement or child-placing agency placement;

(c) Cost of services;

(d) Length of treatment; and

(e) Discharge outcomes; and

(5) Monitoring each child-caring facility annually for quality assurance with:

(a) On-site record reviews;

(b) Interviews of residents and staff; and

(c) Satisfaction surveys of referring cabinet staff and parents.

Written reports shall be sent to:

1. Child-caring facility; and

2. Cabinet.


(2) The provider shall demonstrate its ability to provide services, either directly or by contract, appropriate to the assigned level for that child and shall include:

(a) Room and board including an [any] activity contributing to housing, food, clothing, school supplies, or personal incidentals;

(b) Clinical services include the evaluation and treatment of an emotional disorder [disorders], mental illness and substance abuse and are directed to the identification and alleviation of disability or distress, related thereto, experienced by a child that [which] follows a specific treatment plan [plans] targeted to identify a problem [identified problems]; and

(c) Support services that [which] include:

1. The identification of resources needed by a child and the coordination of services provided by a range of agencies or professionals;

2. Services that [which] allow a child to cope with the disability or distress;

3. Services that [which] provide access to improving the educational or vocational status of the child; and

4. Services that [which] provide essential elements of daily living.

Section 8. [5:] Referral Process. (1) When the social [familial] service worker determines a need to place a child with a child-caring facility or child-placing agency, a referral packet shall be completed and a copy submitted to the gatekeeper.

(2) The gatekeeper shall determine the appropriate level of care needed, using a needs assessment consistent with one (1) of the five [five] criteria of care, and inform the completed OQHC-886 [BSS-886] Private Child Care Client Inter-Agency Referral Form to the social [familial] service worker within three (3) working days of receipt of the referral packet.

(3) The social service worker shall then submit a copy of the referral packet with level assignment to the placement coordinator pursuant to KRS 199.801, who shall forward the referral packet to potential child-caring and child-placing facilities. [Upon notification of the assigned level of care, the family service worker shall forward the referral packet to potential child-caring facilities.]

(4) Once a child-caring facility accepts a child for placement, the social [familial] service worker shall complete the OQHC-114 [BSS-114], Schedule of Payment, [herein incorporated by reference] and, on the pre-arranged date of placement, transport the child to the facility.

(5) On a quarterly [monthly] basis for a private child care residential placement or semiannual basis for a foster care placement, the child-caring facility or child-placing agency shall submit to the gatekeeper and social [familial] service worker a copy of the child's record or a narrative summary including:

(a) Information regarding the child's adjustment;

(b) Services provided to both the child and family;

(c) Progress made toward returning the child home; and

(d) Future plans for the child.

Section 9. [6:] Dispute Resolution. A child-caring facility or child-placing agency may request a dispute resolution to a determination made by the gatekeeper in the application of the provisions of this administrative regulation.

(1) A written notice of dispute shall be submitted to the commissioner no later than thirty (30) days after a child-caring facility or child-placing agency is notified of a level of care determination. The notice of dispute shall:

(a) Specify the action being disputed;

(b) Specify the reasons the child-caring facility or child-placing agency believes the level of care determination is unwarranted;

(c) Include documentation the child-caring facility or child-placing agency considers relevant to support the dispute; and

(d) Specify an alternative determination or action [determinations or actions] that may be taken.

(2) The commissioner shall cause the dispute to be reviewed and evaluated and shall:

(a) Notify the facility or child-placing agency of the date, time and place for the informal conference within thirty (30) days of the receipt of the notice of dispute. The informal conference with the child-caring facility or child-placing agency shall be conducted according to the following procedures:

1. The commissioner shall preside over the informal conference with the child-caring facility or child-placing agency; [c]

2. The proceedings shall be recorded; [c]

3. The child-caring facility or child-placing agency or an authorized representative may present oral arguments or documentation that...
VOLUME 27, NUMBER 2 - AUGUST 1, 2000

[which] are considered relevant to support the facility's contention regarding the assigned level of care;[7]

4. The department staff and the gatekeeper shall explain the department's decision regarding the assigned level of care;[7]

5. The commissioner may question the participants and may permit questions or discussions among participants if that may contribute to reaching a decision regarding the assigned level of care under dispute; and[7]

(b) Issue a written decision on the dispute, including a finding [findings] of fact and a conclusion [conclusions] of law, no later than thirty (30) days after the informal conference.

Section 10, [7] Administrative Hearing Process. If the child-caring facility disagrees with the commissioner's decision on the dispute, the facility has the right to an administrative hearing held in accordance with KRS Chapter 13B. The notice of hearing shall comply with KRS 13B.050.

Section 11, Incorporation [8] Material Incorporated by Reference. (1) The following material is [forms are herein] incorporated by reference:

(a) [OHC-114 [96S-144], “Schedule of Payment”, edition July 2000] [October 1997];

(b) [OHC-888 [96S-888], “Private Child Care Client Interagency Referral Form”, edition July 2000] [March 1996];

(c) [OHC-88A [96S-88A], “Application for Referral to Private Child Care”, edition July 2000] [September 1996]; and

(d) [OHC-854A, “Child Placement History Log”, edition September 1996]; and

(e) [Achenbach Child Behavior Checklist (CBCL), edition June 1999] [January 1995].

(2) This material [incorporated by reference] may be inspected, [and] copied, or obtained at the Department for Community-Based Services, [8th Floor: 275 East Main Street, Frankfort, Kentucky 40621]. Monday through Friday. [Office hours are] 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
HIREN DESAI, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 14, 2000 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a 5 level reimbursement system and a payment rate for each level of care assigned to each child placed by the cabinet in a private child-caring facility or placed in out-of-home care by a child-placing agency. The function of this administrative regulation shall be to establish procedures whereby each child shall be evaluated based on the child's needs to assure classification in the appropriate level of care.

(b) The necessity of this administrative regulation: The necessity of this administrative regulation shall be to ensure that:

1. Each private child-caring facility or child-placing agency receives payment consistent with the level of care assigned to each child who is placed by the cabinet in the facility or placed by a child-caring agency in out-of-home care; and

2. Each child under the custody of the cabinet shall be placed in a type of placement that best suits the child's needs.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The current administrative regulation, adopted 6-11-96, is not in compliance with SB 186, passed during the 2000 General Assembly.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The current administrative regulation, adopted 6-11-96, is not in compliance with SB 186, passed during the 2000 General Assembly.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This emergency administrative regulation is being amended to: change the title from private child care, levels of care, to private child care placements, levels of care and payment; establish, to the extent funds are available and pursuant to SB 186, a new rate setting methodology and rates of payment for the care of a child who is placed by the cabinet in a private child-caring facility or placed in out-of-home care by a child-placing agency; establish the rate of payment for emergency shelter care; establish the rate of payment for care of adolescents placed in a pregnant and teen parent program and establish the rate of payment for children of adolescents; establish a basic rate of payment for foster care services provided by parents who contract with a child-placing agency; establish the rate of payment for therapeutic foster care services provided by parents who contract with a child-placing agency; establish the rate of payment for therapeutic foster care services provided by parents who contract with a child-placing agency; establish the rate of payment for therapeutic foster care services provided by parents who contract with a child-placing agency; establish the rate of payment for therapeutic foster care services provided by parents who contract with a child-placing agency; establish the rate of payment for therapeutic foster care services provided by parents who contract with a child-placing agency.

(b) The necessity of the amendment to this administrative regulation: The proposed administrative regulation, 922 KAR 1:380E, private child care placements, levels of care and payment, is required to implement SB 186. This legislation, passed during the 2000 General Assembly, establishes the extent funds are available, a new rate setting methodology and rates of payment for the care of children who are placed by the cabinet for Families and Children in private child-caring facilities or placed in out-of-home care by child-placing agencies. The new rates of payment to child-caring facilities and child-placing agencies will become effective July 1, 2000. Therefore, in order to implement SB 186 in a timely manner, an emergency regulation must be filed. Concurrently, the cabinet will initiate the regular filing process providing an opportunity for public comment.

(c) How the amendment conforms to the content of the authorizing statutes: Pursuant to SB 186, this emergency administrative regulation establishes, to the extent funds are available, a new rate setting methodology and rates of payment for the care of children placed by the cabinet in private child-caring facilities or placed in out-of-home care by a child-placing agency.

(d) How the amendment will assist in the effective administration of the statutes: This emergency administrative regulation specifies the actual rates of payment as required by SB 186 for the care of children placed by the cabinet in private child-caring facilities or placed in out-of-home care by child-placing agencies.

(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The entities affected include all children who are placed by the cabinet in private child-caring facilities or placed in out-of-home care by child-placing agencies; private child-caring facilities that care for agency children; and child-placing agencies that place children in out-of-home care. The total number of children placed as of May 2000: 1821. Total number of agencies that provide residential care for children placed by the cabinet: 63.

(f) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Each child who requires out-of-home care or alternative treatment shall be placed as close as possible to the child's geographic home and appropriate placement and treatment services shall be provided that effectively and efficiently meet the needs of the child and the child's family. Each private child-caring facility or child-placing agency shall receive payment (based on the new rate setting methodology required by KRS 139.801) that is consistent with the level of care assigned to each child who is placed by the cabinet in the facility or placed by a child-caring agency in out-of-home care.

(g) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initial costs: $4,500,000 increased costs to the cabinet to establish a new rate setting methodology and rate of payment for the care of a child who is placed in a private child-caring facility or placed in out-of-home care by a child-placing agency.

(b) On a continuing basis: Continuing cost or savings: $4,600,000 increased costs to the cabinet to maintain the new rate setting methodology and rate of payment for the care of a child who is placed in a private child-caring facility or placed in out-of-home care by a child-placing agency.

(h) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The por-
tion of the total cost to the administrative body is 90.5% state funds, 9.5% federal funds. Revenues were budgeted by the 2000 General Assembly for this purpose.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be an impact on state revenues of approximately 90.5% of the total costs to the administrative body.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This emergency administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering is not required as these policies will become effective statewide as the cabinet implements the new rate setting methodology pursuant to this emergency administrative regulation.
PART 2
OF THE
AUGUST 1, 2000
ADMINISTRATIVE REGISTER

Due to the size of the August 1, 2000, Administrative Register, it could not be stapled as one document, but is included in two separate stapled documents. This section is Part 2 of the August 1, 2000 Administrative Register.
KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY  
Division of Student Services  
(As Amended at ARRS, July 11, 2000)  

11 KAR 3:100. Administrative wage garnishment.

RELATES TO: KRS 164.744(1), 164.748(4), (10), (19) 164.753(2), 34 CFR 682.410(b)(10), 20 USC 1095a  
STATUTORY AUTHORITY: KRS 164.744(4), 164.753(2), 20 USC 1095a(e)  
NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 164.744(1) and 164.748(2), the Kentucky Higher Education Assistance Authority has entered into agreements with the secretary to provide loan guarantees in accordance with 20 USC 1071 through 1087-2. 20 USC 1095a permits a student loan guarantee agency to garnish the disposable pay of a borrower to recover a loan guaranteed pursuant to 20 USC 1071 through 1087-2, notwithstanding a provision of state law. That section also permits the student loan guarantee agency to establish procedures for requesting and conducting a hearing related to the wage garnishment. KRS 164.748(19) authorizes the authority to collect from borrowers loans on which the authority has met its guarantee obligation, and KRS 164.748(10) authorizes the authority to conduct administrative hearings, exempt from KRS Chapter 13B, pertaining to wage garnishment. This administrative regulation establishes the procedures for implementing wage garnishment in accordance with requirements of the federal act.

Section 1. (1) Following payment of a claim by the authority to a participating lender by reason of the borrower's default in repayment of an insured student loan, the authority, acting through its executive director or other designee, may issue an administrative order for the withholding of the borrower's disposable pay, which order shall conform to the requirements of this section.  
(2) This administrative regulation shall apply to a debtor who is either a borrower or an endorser of an insured student loan.  
(3) An order for withholding of disposable pay shall not be issued under this section nor become effective less than thirty (30) days after the authority provides a written notice to the debtor by personal service or mail, addressed to the debtor at the residence or employment location last known to the authority. The notice shall include at least the following information:  
(a) The name and address of the debtor;  
(b) The amount of the debt determined by the authority to be due;  
(c) Information sufficient to identify the basis for the debt;  
(d) A statement of the intention of the authority to issue an order for withholding of disposable pay;  
(e) A statement of the right to dispute the existence or amount of the debt or the terms of a proposed repayment schedule under the garnishment order other than a repayment schedule agreed to in writing pursuant to paragraph (g) of this subsection;  
(f) A statement of the right to inspect and copy any records relating to the debt open to inspection in accordance with KRS 61.670 through 61.684;  
(g) A statement of the opportunity to enter into a written agreement with the authority, on terms satisfactory to the authority, establishing a schedule for repayment of the debt;  
(h) A statement that, unless there is good cause determined by the authority for the debtor's failure to timely request a hearing, the debtor's acquiescence to the withholding of disposable pay shall be presumed; and  
(i) A statement that if the debtor requests a hearing, but fails to appear without good cause determined by the hearing officer, the hearing officer shall affirm the issuance of an order for withholding of disposable pay.  
(4) An amount shall not be withheld from the disposable pay of an individual during the first twelve (12) consecutive months of reemployment commenced within twelve (12) months following an involuntary separation from employment.  
(5) Establishment of a written repayment schedule in accordance with subsection (3)(g) of this section shall be deemed, for purposes of subsection (3)(e) of this section, conclusive acknowledgement by the debtor of the existence and amount of debt agreed to be paid.  
(6) Service of the notice required by subsection (3) of this section shall be conclusively presumed to be effected five (5) days after mailing of the notice by the authority, unless the notice is returned to the authority undelivered by the postal service. The date of service of the notice shall otherwise be evidenced by affidavit of a person executing personal service or a delivery receipt.

Section 2. (1)(a) A hearing shall be provided if the debtor, on or before the 15th day following the date of service of the notice required by Section 1(3) of this administrative regulation, files with the authority a written request for a hearing in accordance with procedures prescribed by this administrative regulation. The timely filing of a request for a hearing (evidenced by a legibly dated U.S. Postal Service postmark or mail receipt) shall automatically stay further collection activity under this administrative regulation pending the outcome of the hearing.  
(b) If the debtor requests a hearing, but the request is not timely filed, a hearing shall be provided, but the request shall not stay further action pending the outcome of the hearing.  
(c) A hearing officer, appointed by the authority (who shall not be an individual under the supervision or control of the board other than an administrative law judge), shall conduct the hearing.  
(d) A hearing officer shall voluntarily disqualify himself and withdraw from a case in which he cannot afford a fair and impartial hearing or consideration.  
1. A party shall request the disqualification of a hearing officer by filing an affidavit, upon discovery of facts establishing grounds for a disqualification, stating the particular grounds upon which he claims that a fair and impartial hearing cannot be accorded.  
2. The request for disqualification and the disposition of the request shall be a part of the official record of the proceeding.  
3. Grounds for disqualification of a hearing officer shall include the following:  
(a) Participating in an ex parte communication which would prejudice the proceedings;  
(b) Having a pecuniary interest in the outcome of the proceeding; or  
(c) Having a personal bias toward a party to a proceeding which would cause a prejudgment or the outcome of the proceeding.  
(e) A dispute hearing shall be conducted in Franklin County or another location agreed to by the parties.  
(f) In lieu of an in-person hearing, upon request of the debtor, a hearing may be conducted by telephone or the hearing officer may conduct a review based solely upon submission of written material by both the debtor and the authority. An in-person or telephonic hearing shall be mechanically, electronically or stenographically recorded.  
(g) Unless required for the disposition of an ex parte matter specifically authorized by this administrative regulation, a hearing officer shall not communicate off the record with a party to the hearing concerning a substantive issue, while the proceeding is pending.  
(2)(a) The hearing officer's decision, reason therefore and an explanation of the appeal process shall be rendered in writing no more than sixty (60) days after receipt by the authority of the request for the hearing. The decision shall establish the debtor's liability, if any, for repayment of the debt and the amount to be withheld from the debtor's disposable pay.  
(b) Subject to subsection (3)(b) of this section, the hearing officer's decision shall be final and conclusive pertaining to the right of the authority to issue an administrative order for the withholding of the debtor's disposable pay.  
(c) A person, upon request, shall receive a copy of the official record at the cost of the requester. The party requesting a recording or
transcript of the hearing shall be responsible for transcription costs.
The official record of the hearing shall consist of:

1. All notices, pleadings, motions, and intermediate rulings;
2. Any prehearing order;
3. Evidence received and considered;
4. A statement of matters officially noticed;
5. Proffers of proof and objections and rulings thereon;
6. Ex parte communications placed upon the record by the hearing officer;
7. A recording or transcript of the proceedings; and
8. The hearing officer's decision or an order of the hearing officer
issued pursuant to Section 3(2)(e) of this administrative regulation.

(a) Following the issuance of the hearing officer's decision, the
debtor or the authority may petition the board to review the decision.
(b) An adverse decision by the hearing officer shall be appealed in
writing to the board not later than twenty (20) calendar days after the
date of the hearing officer's decision. A petition for review of the hear-
ing officer's decision shall be timely filed if received by the executive
director within twenty (20) calendar days after the date of the hearing
officer's decision. If there is no appeal to the board within twenty (20)
days, the findings of the hearing officer shall be conclusive and bind-
ing upon the parties.

(c) A petition for review of the hearing officer's decision shall not
stay a final order pending the outcome of the review. If the debtor's
liability is determined by the hearing officer's decision, the adminis-
trative order for withholding of disposable pay shall be issued by the
authority within sixty (60) days after the date of the hearing officer's
decision. If the debtor petitions the board to review the hearing offi-
cer's decision and obtains reversal, modification or remand of the
hearing officer's decision, the authority shall return to the debtor any
money received pursuant to the withholding order contrary to the final
order of the board.

(d) The respondent may, within ten (10) calendar days from the
date the petition was received by the executive director, provide a brief
statement to the board responding to the petition of review. The re-
sponse shall be timely filed if received by the executive director within
(10) calendar days from receipt by the executive director of the petition
for review.

(e) A petition for review of the hearing officer's decision shall con-
tain the following information:

1. A concise statement of the reason that the petitioner asserts as
the basis pursuant to paragraph (g) of this subsection for reversing,
modifying or remanding the hearing officer's decision or an order of
the hearing officer issued pursuant to Section 3(2)(e) of this adminis-
trative regulation;
2. A statement specifying the part of the official record that the
petitioner relies upon to support reversing, modifying or remanding
the hearing officer's decision pursuant to paragraph (g) of this subsection;
and
3. A statement of whether the petitioner believes that oral argu-
ment to the board is necessary.

(f) The board shall review the hearing officer's decision at its next
regularly scheduled meeting convened at least thirty (30) days after
the petition for review of the hearing officer's decision is received or at
a special meeting convened for that purpose within ninety (90) days after
receipt of the petition for review of the hearing officer's decision,
whichever first occurs.

(g) The board shall decide the dispute upon the official record,
unless there is fraud or misconduct involving a party, and may con-
sider oral arguments by the debtor and the authority. The board shall:
1. Not substitute its judgment for that of the hearing officer as to
the weight of the evidence or to the correctness of the fact; and
2. a. Uphold the hearing officer's decision unless it is clearly un-
supported by the evidence and the applicable law;
b. Reject or modify, in whole or in part, the hearing officer's deci-

or
or
or

(1) In violation of constitutional or statutory provisions;
(2) In excess of the statutory authority of the agency;
(3) Without support of substantial evidence on the whole record;
(4) Arbitrary, capricious, or characterized by abuse of discretion;
or
or
or

(v) Based on an ex parte communication which substantially
prejudiced the rights of a party and likely affected the outcome of the
hearing.

(h) The final order of the board shall be in writing. If the final order
differs from the hearing officer's decision, it shall include separate
statements of findings of fact and conclusions of law.
(4) The remedies provided in this section shall not:
(a) Preclude the use of other judicial or administrative remedies
available to the authority under state or federal law; and
(b) Be construed to stay the use of another remedy.

Section 3. Hearing Procedure. (1) The debtor shall have the right
to be heard by the hearing officer, be represented by counsel, present
evidence, cross examine, and make both opening and closing state-
ments.

(a) Upon request of a party, the hearing officer may issue subpo-
ea for the production of a document or attendance of a witness.
(b) Not more than ten (10) business days after the date of filing
the request for a hearing or a review of written material, the debtor
shall submit to the counsel for the authority a written statement spe-
cifically stating the basis of dispute.

2. Not less than fifteen (15) business days prior to the hearing, the
parties shall:

a. Confer and jointly stipulate the issues that are in controversy to
be resolved by the hearing officer;
b. Discuss the possibility of informal resolution of the dispute;
c. Exchange a witness list of the names, addresses, and phone
numbers of each witness expected to testify at the hearing and a brief
summary of the testimony of each witness that the party expects to
introduce into evidence; and
d. Exchange an exhibit list identifying documents to be admitted
into evidence at the hearing and provide a legible copy of all exhibits.

3. a. If the debtor is unavailable or otherwise fails to confer and
jointly stipulate the issues pursuant to subparagraph 2 of this para-
graph, the authority shall serve upon the debtor proposed stipulation of
issues. If within five (5) calendar days, the debtor fails to respond to
the proposed stipulation of issues, the debtor shall be precluded from
raising an additional issue not identified in the proposed stipulation of
issues.
3. b. If the debtor is unavailable or otherwise fails to cooperate in
a timely manner for the exchange of the witness or exhibit lists, the
debtor shall be precluded from admitting the information as part of the
evidence at the hearing.

4. The authority shall provide to the hearing officer the documen-
tation submitted in accordance with subparagraph 1 of this para-
graph and shall report to the hearing officer the results of the discussions
between the parties described in subparagraphs 2 and 3 of this para-
graph.

5. Additional time for compliance with the requirements of this
paragraph may be granted by the hearing officer, upon request, if it
does not prejudice the rights of the authority or delay the rendering of
a hearing decision within the time prescribed in subsection (2) of this
section.

6. If the debtor requests a hearing, but the debtor's written state-
ment and supporting documentation, considered from a viewpoint
most favorable to the debtor, does not reflect a genuine issue of fact
or prima facie defense to the legal enforceability of the authority's
claim, the hearing officer, on petition of the authority and notice to the
debtor, may enter an order dismissing the request for a hearing and
authorizing issuance of the order described in Section 5 of this ad-
ministrative regulation.

(c) Facts recited in the authority's notice pursuant to Section 1(3)
of this administrative regulation that are not denied shall be deemed
admitted. Each party shall remain under an obligation to disclose new
or additional items of evidence or witnesses which may come to their
attention as soon as practicable.

(d) Either party, without leave of the hearing officer, may depose a
witness, upon reasonable notice to the witness and the opposing party,
and submit to the opposing party interrogatories or request for
admissions.

2. The party receiving interrogatories or request for admissions
shall respond within fifteen (15) calendar days.

3. Each matter of which an admission is requested shall be
deemed admitted unless, within fifteen (15) days after service of the request or a shorter or longer time that the hearing officer may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter.

(e) Noncompliance with the requirements of this subsection, including failure of the authority to timely appoint a hearing officer or respond to a request for inspection of records or failure of the debtor to submit information in accordance with paragraph (b) of this subsection in a timely manner sufficient to permit the debtor, the authority, or the hearing officer to timely perform his obligations shall be sufficient grounds for entry of an appropriate order by the hearing officer, including postponement, exclusion of evidence, dismissal of the appeal, quashing the witholding order, or vacating the stay.

(3) Order of proceeding.

(a) The hearing officer shall:
1. Convene an in-person or telephonic hearing;
2. Identify the parties to the action and the persons participating;
3. Admit into evidence the notice required by Section 1(3) of this administrative regulation and the debtor's statement and the stipulations required by subsection (2)(b)1 and 2 of this section;
4. Solicit from the parties and dispose of any objections or motions;
5. Accept into evidence any documentary evidence not objected to;
6. Solicit opening statements; and
7. Proceed with the taking of proof.
(b) The taking of proof shall commence first by the debtor and then by the authority, with opportunities for cross-examination, rebuttal, and closing statements.

(4) Rules of evidence.

(a) All testimony shall be made under oath or affirmation.
(b) The hearing officer shall not admit evidence that is inadmissible as a violation of an individual's constitutional or statutory rights or a privilege recognized by the courts of the Commonwealth.
(c) Statutes or judicial rules pertaining to the admission of evidence in a judicial proceeding shall not apply to a hearing under this section.
(d) The hearing officer may receive evidence deemed reliable and relevant, including evidence that would be considered hearsay if presented in court, except that hearsay evidence shall not be sufficient in itself to support the hearing officer's decision.
(e) A copy of a document shall be admissible if:
   a. [insert]
   b. [insert]
   c. [insert]
   d. [insert]
   e. [insert]
   f. [insert]
   g. [insert]
   h. [insert]
   i. [insert]
   j. [insert]
   k. [insert]
   l. [insert]

(5) The hearing officer may exclude evidence deemed unreliable, irrelevant, incompetent, inadmissible, or unduly repetitious.

(6) An objection to an evidentiary offer may be made by any party and shall be noted in the record.

(c) The hearing officer:
1. May take official notice of:
   a. Statutes and administrative regulations;
   b. Facts which are not in dispute; and
   c. Generally-recognized technical or scientific facts;
   d. If notified before or during the hearing of a fact so noticed and its source; and
   e. Shall give each party an opportunity to contest facts officially noticed.
2. At the discretion of the hearing officer, the parties may be allowed up to fifteen (15) days following the hearing to submit written arguments or briefs.
3. Upon request of either party, the record of the hearing shall be transcribed, and shall be available to the parties at their own expense.

(d) Burden of proof.

(a) The authority shall have the burden to establish the existence and amount of the debt.
(b) The debtor shall have the burden to establish an affirmative defense.
(c) The party with the burden of proof on an issue shall have the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion shall be met by a prima facie establishment of relevant, uncontroverted facts or, if relevant facts are disputed, a preponderance of evidence in the record.
(d) Failure to meet the burden of proof shall be grounds for a summary order from the hearing officer.

Section 4. Defenses. (1) Except as provided in subsection (2) of this section, a debtor may assert a defense to the issuance of an administrative order to withhold the debtor's disposable pay, legal or equitable, pertaining to the existence or amount of the debt or the terms of a proposed repayment schedule under the garnishment order (other than a repayment schedule agreed to in writing pursuant to Section 1(3)(g) of this administrative regulation).

(2) The hearing officer shall not consider a defense a question of law or fact that has previously been adjudicated by a court of competent jurisdiction or by an independent third-party trier of fact in an administrative proceeding involving the debtor and the authority pertaining to the existence, amount, or the debtor's liability on the particular debt in question or the terms of a prior repayment schedule.

(3) If the debtor asserts as a defense a question of law or fact that was previously raised in an administrative proceeding before the authority pursuant to 11 KAR 4030 or 11 KAR 4050, the hearing officer:

(a) Shall:
   1. Consider the matter; and
   2. Give deference to the prior decision by the authority in the same manner that a court would give deference in reviewing the decision of an administrative agency; and
   (b) May reverse the prior decision if the debtor presents evidence that:
      1. Circumstances have changed or new information is available; or
      2. The prior decision:
         a. Substantially disregarded or ignored the defense; or
         b. Was arbitrary, capricious, not supported by the facts or made through fraud.

(4) If the debtor asserts as a defense a claim of entitlement to discharge of the particular debt pursuant to 34 CFR 682.402, except for reason of bankruptcy, but has not previously sought discharge by the authority for that specific reason, the hearing officer shall stay the hearing for a period sufficient to permit the debtor to submit documentation to the authority for a determination of eligibility for entitlement to the discharge. At the expiration of the period of stay, the hearing officer shall review the circumstances and:

(a) Uphold the right of the authority to issue an order of wage withholding if the debtor has failed to submit documentation to the authority for review of entitlement to discharge;
(b) Dismiss the request for hearing if the debtor has submitted documentation and the authority has approved discharge of the debt; or
(c) Proceed with the hearing if the debtor submitted documentation and the authority denied discharge, except that the hearing officer shall consider the defense of entitlement to discharge in accordance with subsection (3) of this section.

(5) If the debtor asserts as a defense a claim that the debt was dischargeable in a previous bankruptcy pursuant to 20 USC 523(a)(2)(B), but the debtor did not previously seek discharge by the bankruptcy court, the hearing officer shall stay the hearing for a period sufficient to permit the debtor to reopen the bankruptcy case. At the expiration of the period of stay, the hearing officer shall review the circumstances and:

(a) Uphold the right of the authority to issue an order of wage withholding if the debtor has failed to obtain the bankruptcy court's permission to reopen the bankruptcy case to seek discharge of the particular debt; or
(b) Dismiss the request for hearing if the bankruptcy court has reopened the bankruptcy case to consider discharge of the particular debt.

(6)(a) If the debtor asserts as a defense a claim that withholding of his disposable pay would constitute an extreme financial hardship, the debtor shall submit documentation of all available resources and actual expenses and shall have the burden of demonstrating the necessity of actual expenses.
(b) The hearing officer shall compare the debtor's available resources and the necessary expenses and current debt obligations of the debtor and debtor's dependents. The hearing officer shall determine that extreme financial hardship exists if the debtor currently is not able to provide at least minimal subsistence for the debtor and
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

debror's dependents that could be claimed on a federal income tax return. The hearing officer shall consider as available resources of the debtor income of the debtor, the debtor's spouse, and debtor's dependents from all sources, including nontaxable income and government benefits, expenses paid on behalf of the debtor by another person, and the cash value of any current liquid assets, such as bank accounts and investments. The hearing officer shall consider the claim of extreme financial hardship in accordance with the following presumptions.

1. Witholding of an amount of disposable pay shall constitute an extreme financial hardship if:
   a. The debtor resides in the District of Columbia or a state other than Alaska or Hawaii and the debtor's available resources do not exceed the applicable poverty guideline, multiplied by 125 percent, based on the debtor's family size:

<table>
<thead>
<tr>
<th>Size of family unit</th>
<th>Poverty guideline</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$8,350</td>
</tr>
<tr>
<td>2</td>
<td>$11,250</td>
</tr>
<tr>
<td>3</td>
<td>$14,150</td>
</tr>
<tr>
<td>4</td>
<td>$17,050</td>
</tr>
<tr>
<td>5</td>
<td>$19,950</td>
</tr>
<tr>
<td>6</td>
<td>$22,850</td>
</tr>
<tr>
<td>7</td>
<td>$25,750</td>
</tr>
<tr>
<td>8</td>
<td>$28,650</td>
</tr>
<tr>
<td>Each additional person</td>
<td>Add $2,900</td>
</tr>
</tbody>
</table>

b. The debtor resides in Alaska and the debtor's available resources do not exceed the applicable poverty guideline, multiplied by 125 percent, based on the debtor's family size:

<table>
<thead>
<tr>
<th>Size of family unit</th>
<th>Poverty guidelines</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$10,430</td>
</tr>
<tr>
<td>2</td>
<td>$14,000</td>
</tr>
<tr>
<td>3</td>
<td>$17,570</td>
</tr>
<tr>
<td>4</td>
<td>$21,130</td>
</tr>
<tr>
<td>5</td>
<td>$24,690</td>
</tr>
<tr>
<td>6</td>
<td>$28,250</td>
</tr>
<tr>
<td>7</td>
<td>$31,810</td>
</tr>
<tr>
<td>8</td>
<td>$35,380</td>
</tr>
<tr>
<td>Each additional person</td>
<td>Add $3,630</td>
</tr>
</tbody>
</table>

c. The debtor resides in Hawaii and the debtor's available resources do not exceed the applicable poverty guideline, multiplied by 125 percent, based on the debtor's family size:

<table>
<thead>
<tr>
<th>Size of family unit</th>
<th>Poverty guidelines</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$9,590</td>
</tr>
<tr>
<td>2</td>
<td>$12,290</td>
</tr>
<tr>
<td>3</td>
<td>$14,990</td>
</tr>
<tr>
<td>4</td>
<td>$17,690</td>
</tr>
<tr>
<td>5</td>
<td>$20,390</td>
</tr>
<tr>
<td>6</td>
<td>$23,090</td>
</tr>
<tr>
<td>7</td>
<td>$25,790</td>
</tr>
<tr>
<td>8</td>
<td>$28,490</td>
</tr>
<tr>
<td>Each additional person</td>
<td>Add $3,340</td>
</tr>
</tbody>
</table>

2.a. If the debtor resides in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, or Vermont, except for a metropolitan area listed in clause b of this subparagraph, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>Debito's Available Resources</th>
<th>Less Than $5,000</th>
<th>$5,000 to $9,999</th>
<th>$10,000 to $14,999</th>
<th>$15,000 to $20,000</th>
<th>$20,000 to $29,999</th>
<th>$30,000 to $39,999</th>
<th>$40,000 to $49,999</th>
<th>$50,000 to $59,999</th>
<th>$70,000 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debtors Annual Expenditures</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owned dwelling</td>
<td>1,341</td>
<td>1,037</td>
<td>2,214</td>
<td>2,206</td>
<td>3,177</td>
<td>3,397</td>
<td>5,073</td>
<td>6,719</td>
<td>11,348</td>
</tr>
<tr>
<td>Rented dwelling</td>
<td>1,216</td>
<td>1,023</td>
<td>2,194</td>
<td>2,185</td>
<td>3,166</td>
<td>3,386</td>
<td>5,056</td>
<td>6,682</td>
<td>11,312</td>
</tr>
<tr>
<td>Other lodging</td>
<td>152</td>
<td>138</td>
<td>275</td>
<td>274</td>
<td>384</td>
<td>405</td>
<td>574</td>
<td>744</td>
<td>1,422</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
<td>1,333</td>
<td>1,333</td>
<td>1,333</td>
<td>1,333</td>
<td>1,333</td>
<td>1,333</td>
<td>1,333</td>
<td>1,333</td>
<td>1,333</td>
</tr>
<tr>
<td>Household services</td>
<td>145</td>
<td>103</td>
<td>296</td>
<td>315</td>
<td>449</td>
<td>530</td>
<td>668</td>
<td>933</td>
<td>1,324</td>
</tr>
<tr>
<td>Housekeeping and miscellaneous supplies</td>
<td>185</td>
<td>185</td>
<td>185</td>
<td>185</td>
<td>185</td>
<td>185</td>
<td>185</td>
<td>185</td>
<td>185</td>
</tr>
<tr>
<td>Household furnishings</td>
<td>672</td>
<td>1,125</td>
<td>937</td>
<td>843</td>
<td>909</td>
<td>1,567</td>
<td>1,922</td>
<td>2,059</td>
<td>3,585</td>
</tr>
<tr>
<td>VOLUME 27, NUMBER 2 – AUGUST 1, 2000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>equipment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
<td>803</td>
<td>719</td>
<td>978</td>
<td>849</td>
<td>1,537</td>
<td>3,066</td>
<td>3,559</td>
<td>3,336</td>
<td>4,564</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
<td>406</td>
<td>336</td>
<td>478</td>
<td>581</td>
<td>712</td>
<td>973</td>
<td>1,115</td>
<td>1,348</td>
<td>1,607</td>
</tr>
<tr>
<td>Vehicle maintenance and repairs</td>
<td>168</td>
<td>162</td>
<td>289</td>
<td>475</td>
<td>586</td>
<td>607</td>
<td>571</td>
<td>804</td>
<td>1,089</td>
</tr>
<tr>
<td>Vehicle insurance</td>
<td>239</td>
<td>221</td>
<td>403</td>
<td>506</td>
<td>610</td>
<td>987</td>
<td>916</td>
<td>1,130</td>
<td>1,564</td>
</tr>
<tr>
<td>Vehicle lease, license and other charges</td>
<td>183</td>
<td>144</td>
<td>221</td>
<td>268</td>
<td>308</td>
<td>469</td>
<td>524</td>
<td>651</td>
<td>1,549</td>
</tr>
<tr>
<td>Public transportation</td>
<td>310</td>
<td>224</td>
<td>305</td>
<td>339</td>
<td>419</td>
<td>580</td>
<td>588</td>
<td>543</td>
<td>1,359</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Debtor’s Available Resources</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $5,000</td>
</tr>
<tr>
<td>to $5,000</td>
</tr>
<tr>
<td>$5,000 to $9,999</td>
</tr>
<tr>
<td>$10,000 to $14,999</td>
</tr>
<tr>
<td>$15,000 to $19,999</td>
</tr>
<tr>
<td>$20,000 to $29,999</td>
</tr>
<tr>
<td>$30,000 to $39,999</td>
</tr>
<tr>
<td>$40,000 to $49,999</td>
</tr>
<tr>
<td>$50,000 to $69,999</td>
</tr>
<tr>
<td>$70,000 and over</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Annual Expenditures</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Owned-dwelling</td>
</tr>
<tr>
<td>Rented-dwelling</td>
</tr>
<tr>
<td>Other-lodging</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
</tr>
<tr>
<td>Household services</td>
</tr>
<tr>
<td>Housekeeping and miscellaneous-supplies</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
</tr>
<tr>
<td>Vehicle maintenance and repairs</td>
</tr>
<tr>
<td>Vehicle insurance</td>
</tr>
<tr>
<td>Vehicle lease, license, and other charges</td>
</tr>
<tr>
<td>Public transportation</td>
</tr>
</tbody>
</table>

b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor’s family that exceed the applicable amount for a category shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>New York</th>
<th>Philadelphia</th>
<th>Boston</th>
<th>Pittsburgh</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owned dwellings</td>
<td>5,777</td>
<td>6,774</td>
<td>5,015</td>
</tr>
<tr>
<td>Rented dwellings</td>
<td>3,409</td>
<td>1,735</td>
<td>2,438</td>
</tr>
<tr>
<td>Other lodging</td>
<td>525</td>
<td>918</td>
<td>1,120</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
<td>2,501</td>
<td>2,821</td>
<td>2,536</td>
</tr>
<tr>
<td>Household services</td>
<td>561</td>
<td>425</td>
<td>648</td>
</tr>
<tr>
<td>Housekeeping, and miscellaneous supplies</td>
<td>440</td>
<td>400</td>
<td>349</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>1,940</td>
<td>1,638</td>
<td>1,896</td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
<td>2,030</td>
<td>2,978</td>
<td>2,274</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
<td>870</td>
<td>1,015</td>
<td>1,020</td>
</tr>
<tr>
<td>Other vehicle expenses (repairs, insurance, lease, license, and other charges)</td>
<td>2,431</td>
<td>2,708</td>
<td>2,212</td>
</tr>
<tr>
<td>Public transportation</td>
<td>961</td>
<td>457</td>
<td>638</td>
</tr>
<tr>
<td>Debtor's Available Resources</td>
<td>Less than $5,000</td>
<td>$5,000 to $9,999</td>
<td>$10,000 to $14,999</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>-----------------</td>
<td>------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Owned dwellings</td>
<td>1,809</td>
<td>816</td>
<td>1,500</td>
</tr>
<tr>
<td>Rented dwellings</td>
<td>1,482</td>
<td>1,707</td>
<td>1,726</td>
</tr>
<tr>
<td>Other lodging</td>
<td>296</td>
<td>139</td>
<td>172</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
<td>1,377</td>
<td>1,619</td>
<td>1,857</td>
</tr>
<tr>
<td>Household operations services</td>
<td>262</td>
<td>119</td>
<td>244</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>956</td>
<td>487</td>
<td>680</td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
<td>1,400</td>
<td>838</td>
<td>1,454</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
<td>540</td>
<td>418</td>
<td>590</td>
</tr>
<tr>
<td>Vehicle maintenance and repairs</td>
<td>423</td>
<td>233</td>
<td>461</td>
</tr>
<tr>
<td>Vehicle insurance</td>
<td>385</td>
<td>217</td>
<td>417</td>
</tr>
<tr>
<td>Vehicle lease, license, and other charges</td>
<td>110</td>
<td>22</td>
<td>158</td>
</tr>
<tr>
<td>Public transportation</td>
<td>237</td>
<td>99</td>
<td>141</td>
</tr>
</tbody>
</table>

3.a. If the debtor resides in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, or Wisconsin, except for a metropolitan area listed in clause b of this subparagraph, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary.

| Housekeeping and miscellaneous supplies | 490 | 275 | 272 | 967 | 476 | 466 | 584 | 749 | 898 |
| Household furnishings and equipment | 588 | 424 | 566 | 667 | 1,110 | 1,090 | 1,064 | 1,046 | 1,024 |
| Vehicle purchases (net outlay) | 1,047 | 1,125 | 1,101 | 2,657 | 2,386 | 2,864 | 9,965 | 4,979 | 5,665 |
| Gasoline and motor oil | 577 | 444 | 556 | 886 | 962 | 1,229 | 3,063 | 1,559 | 1,624 |
| Vehicle maintenance and repairs | 456 | 282 | 976 | 916 | 564 | 686 | 765 | 959 | 1,266 |
| Vehicle insurance | 290 | 258 | 368 | 546 | 622 | 742 | 659 | 940 | 1,114 |
| Vehicle lease, license, and other charges | 443 | 449 | 479 | 190 | 298 | 329 | 437 | 628 | 1,196 |
| Public transportation | 294 | 444 | 297 | 481 | 493 | 241 | 286 | 529 | 1,184 |

b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor's family that exceed the applicable amount for a category shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>Chicago</th>
<th>Detroit</th>
<th>Milwaukee</th>
<th>Minneapolis St. Paul</th>
<th>Cleveland</th>
<th>Cincinnati</th>
<th>St. Louis</th>
<th>Kansas City</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owned dwelling</td>
<td>5,184</td>
<td>4,828</td>
<td>5,657</td>
<td>5,599</td>
<td>4,293</td>
<td>4,291</td>
<td>4,093</td>
</tr>
<tr>
<td>Rented dwelling</td>
<td>2,076</td>
<td>1,561</td>
<td>2,071</td>
<td>1,907</td>
<td>1,490</td>
<td>2,143</td>
<td>1,488</td>
</tr>
<tr>
<td>Other lodging</td>
<td>436</td>
<td>420</td>
<td>388</td>
<td>630</td>
<td>562</td>
<td>351</td>
<td>330</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
<td>2,598</td>
<td>2,505</td>
<td>2,224</td>
<td>2,292</td>
<td>2,604</td>
<td>2,389</td>
<td>2,783</td>
</tr>
<tr>
<td>Household services</td>
<td>559</td>
<td>492</td>
<td>418</td>
<td>736</td>
<td>468</td>
<td>822</td>
<td>604</td>
</tr>
<tr>
<td>Housekeeping and miscellaneous supplies</td>
<td>592</td>
<td>404</td>
<td>478</td>
<td>572</td>
<td>476</td>
<td>388</td>
<td>423</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>1,627</td>
<td>1,580</td>
<td>2,039</td>
<td>3,030</td>
<td>1,829</td>
<td>1,699</td>
<td>1,431</td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
<td>2,557</td>
<td>2,629</td>
<td>2,599</td>
<td>4,117</td>
<td>3,030</td>
<td>2,704</td>
<td>2,859</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
<td>982</td>
<td>1,055</td>
<td>1,036</td>
<td>1,258</td>
<td>932</td>
<td>1,109</td>
<td>1,084</td>
</tr>
<tr>
<td>Other vehicle expenses (repairs, insurance, leases, license, and other charges)</td>
<td>1,788</td>
<td>2,315</td>
<td>2,048</td>
<td>3,168</td>
<td>2,331</td>
<td>2,226</td>
<td>2,503</td>
</tr>
<tr>
<td>Public transportation</td>
<td>554</td>
<td>470</td>
<td>493</td>
<td>585</td>
<td>359</td>
<td>441</td>
<td>288</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chicago</th>
<th>Detroit</th>
<th>Milwaukee</th>
<th>Minneapolis St. Paul</th>
<th>Cleveland</th>
<th>Cincinnati</th>
<th>St. Louis</th>
<th>Kansas City</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owned dwelling</td>
<td>5,222</td>
<td>4,199</td>
<td>4,918</td>
<td>5,164</td>
<td>5,779</td>
<td>5,943</td>
<td>5,468</td>
</tr>
<tr>
<td>Rented dwelling</td>
<td>2,012</td>
<td>1,552</td>
<td>2,066</td>
<td>1,699</td>
<td>1,551</td>
<td>2,193</td>
<td>1,498</td>
</tr>
<tr>
<td>Other lodging</td>
<td>451</td>
<td>448</td>
<td>438</td>
<td>768</td>
<td>497</td>
<td>978</td>
<td>984</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
<td>2,617</td>
<td>2,507</td>
<td>2,141</td>
<td>2,329</td>
<td>2,672</td>
<td>2,274</td>
<td>2,706</td>
</tr>
<tr>
<td>Household services</td>
<td>646</td>
<td>459</td>
<td>345</td>
<td>594</td>
<td>708</td>
<td>558</td>
<td>665</td>
</tr>
<tr>
<td>Housekeeping and miscellaneous supplies</td>
<td>560</td>
<td>458</td>
<td>456</td>
<td>496</td>
<td>506</td>
<td>428</td>
<td>476</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>1,397</td>
<td>1,503</td>
<td>4,479</td>
<td>4,771</td>
<td>4,705</td>
<td>1,890</td>
<td>1,561</td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
<td>2,054</td>
<td>2,246</td>
<td>4,926</td>
<td>3,241</td>
<td>2,626</td>
<td>8,999</td>
<td>2,640</td>
</tr>
</tbody>
</table>
## VOLUME 27, NUMBER 2 – AUGUST 1, 2000

<table>
<thead>
<tr>
<th>Gasoline and motor-oil</th>
<th>$1,945</th>
<th>$1,162</th>
<th>$996</th>
<th>$1,874</th>
<th>$977</th>
<th>$1,036</th>
<th>$1,790</th>
<th>$1,409</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other vehicle expenses</td>
<td>$1,655</td>
<td>$2,062</td>
<td>$1,868</td>
<td>$1,097</td>
<td>$2,492</td>
<td>$2,492</td>
<td>$2,229</td>
<td>$2,269</td>
</tr>
<tr>
<td>(repairs, insurance, lease, license, and other charges)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public transportation</td>
<td>$604</td>
<td>$456</td>
<td>$462</td>
<td>$696</td>
<td>$476</td>
<td>$496</td>
<td>$496</td>
<td>$168</td>
</tr>
</tbody>
</table>

4.a. If the debtor resides in Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, or West Virginia, except for a metropolitan area listed in clause b of this subparagraph, actual annual expenditures by the debtor’s family that exceed the applicable amount for a category, based on the debtor’s available resources, shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>Debtor’s Available Resources</th>
<th>Less than $5,000</th>
<th>$5,000 to $9,999</th>
<th>$10,000 to $14,999</th>
<th>$15,000 to $19,999</th>
<th>$20,000 to $29,999</th>
<th>$30,000 to $39,999</th>
<th>$40,000 to $49,999</th>
<th>$50,000 to $69,999</th>
<th>$70,000 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owned dwelling</td>
<td>1,108</td>
<td>975</td>
<td>1,347</td>
<td>1,686</td>
<td>2,073</td>
<td>3,248</td>
<td>3,772</td>
<td>4,944</td>
<td>8,292</td>
</tr>
<tr>
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<td>1,907</td>
<td>1,534</td>
<td>1,662</td>
<td>1,886</td>
<td>2,019</td>
<td>1,981</td>
<td>1,716</td>
<td>1,438</td>
<td>1,096</td>
</tr>
<tr>
<td>Other lodging</td>
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<td>64</td>
<td>133</td>
<td>159</td>
<td>145</td>
<td>224</td>
<td>325</td>
<td>486</td>
<td>1,183</td>
</tr>
<tr>
<td>Utilities, fuels, and other</td>
<td>1,645</td>
<td>1,755</td>
<td>1,937</td>
<td>2,205</td>
<td>2,298</td>
<td>2,483</td>
<td>2,771</td>
<td>3,044</td>
<td>3,605</td>
</tr>
<tr>
<td>Household services</td>
<td>161</td>
<td>273</td>
<td>302</td>
<td>318</td>
<td>369</td>
<td>408</td>
<td>634</td>
<td>812</td>
<td>1,485</td>
</tr>
<tr>
<td>Housekeeping and miscellaneous supplies</td>
<td>182</td>
<td>216</td>
<td>267</td>
<td>340</td>
<td>388</td>
<td>449</td>
<td>519</td>
<td>641</td>
<td>833</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>495</td>
<td>635</td>
<td>690</td>
<td>829</td>
<td>1,331</td>
<td>1,413</td>
<td>1,844</td>
<td>2,226</td>
<td>3,138</td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
<td>1,147</td>
<td>754</td>
<td>1,768</td>
<td>2,486</td>
<td>2,719</td>
<td>3,238</td>
<td>4,216</td>
<td>6,080</td>
<td>5,785</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
<td>923</td>
<td>497</td>
<td>699</td>
<td>868</td>
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<td>1,176</td>
<td>1,369</td>
<td>1,470</td>
<td>1,699</td>
</tr>
<tr>
<td>Vehicle maintenance and repairs</td>
<td>387</td>
<td>266</td>
<td>413</td>
<td>471</td>
<td>586</td>
<td>776</td>
<td>776</td>
<td>956</td>
<td>1,199</td>
</tr>
<tr>
<td>Vehicle insurance</td>
<td>300</td>
<td>248</td>
<td>377</td>
<td>551</td>
<td>665</td>
<td>776</td>
<td>959</td>
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<tr>
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<td>83</td>
<td>142</td>
<td>99</td>
<td>209</td>
<td>221</td>
<td>315</td>
<td>462</td>
<td>523</td>
<td>848</td>
</tr>
<tr>
<td>charges</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public transportation</td>
<td>95</td>
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<td>142</td>
<td>153</td>
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<td>180</td>
<td>311</td>
<td>385</td>
<td>761</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Debtor’s Available Resources</th>
<th>Less than $5,000</th>
<th>$5,000 to $9,999</th>
<th>$10,000 to $14,999</th>
<th>$15,000 to $19,999</th>
<th>$20,000 to $29,999</th>
<th>$30,000 to $39,999</th>
<th>$40,000 to $49,999</th>
<th>$50,000 to $69,999</th>
<th>$70,000 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owned dwelling</td>
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<td>981</td>
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<td>3,785</td>
<td>5,057</td>
<td>8,413</td>
</tr>
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<td>1,412</td>
<td>1,566</td>
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<td>2,395</td>
<td>2,516</td>
<td>2,289</td>
<td>3,289</td>
</tr>
<tr>
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<td>167</td>
<td>156</td>
<td>467</td>
<td>196</td>
<td>387</td>
<td>493</td>
<td>1,255</td>
</tr>
<tr>
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<td>1,745</td>
<td>1,650</td>
<td>2,209</td>
<td>2,906</td>
<td>2,491</td>
<td>2,816</td>
<td>9,069</td>
<td>9,699</td>
</tr>
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<td>246</td>
<td>303</td>
<td>354</td>
<td>398</td>
<td>439</td>
<td>687</td>
<td>981</td>
<td>1,419</td>
</tr>
<tr>
<td>Housekeeping and miscellaneous supplies</td>
<td>299</td>
<td>228</td>
<td>282</td>
<td>392</td>
<td>856</td>
<td>458</td>
<td>496</td>
<td>598</td>
<td>828</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>566</td>
<td>549</td>
<td>697</td>
<td>685</td>
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<td>4,264</td>
<td>1,790</td>
<td>2,910</td>
<td>9,254</td>
</tr>
<tr>
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<td>3,199</td>
<td>3,978</td>
<td>4,566</td>
<td>5,618</td>
<td>5,952</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
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<td>727</td>
<td>727</td>
<td>921</td>
<td>1,086</td>
<td>1,232</td>
<td>1,512</td>
<td>1,624</td>
<td>4,814</td>
</tr>
<tr>
<td>Vehicle maintenance and repairs</td>
<td>299</td>
<td>289</td>
<td>389</td>
<td>637</td>
<td>676</td>
<td>683</td>
<td>891</td>
<td>1,012</td>
<td>1,012</td>
</tr>
<tr>
<td>Vehicle insurance</td>
<td>299</td>
<td>289</td>
<td>389</td>
<td>637</td>
<td>676</td>
<td>683</td>
<td>891</td>
<td>1,012</td>
<td>1,012</td>
</tr>
<tr>
<td>Vehicle lease, license, and other</td>
<td>429</td>
<td>164</td>
<td>92</td>
<td>225</td>
<td>242</td>
<td>293</td>
<td>526</td>
<td>494</td>
<td>856</td>
</tr>
<tr>
<td>charges</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public transportation</td>
<td>444</td>
<td>164</td>
<td>391</td>
<td>481</td>
<td>1,109</td>
<td>1,474</td>
<td>2,323</td>
<td>435</td>
<td>772</td>
</tr>
</tbody>
</table>
b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor’s family that exceed the applicable amount for a category shall be presumed unnecessary:

<table>
<thead>
<tr>
<th></th>
<th>Washington D.C.</th>
<th>Baltimore</th>
<th>Atlanta</th>
<th>Miami</th>
<th>Tampa</th>
<th>Dallas-Fort Worth</th>
<th>Houston</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owned dwelling</td>
<td>7,056</td>
<td>4,921</td>
<td>5,070</td>
<td>4,412</td>
<td>3,764</td>
<td>3,965</td>
<td>3,639</td>
</tr>
<tr>
<td>Rented dwelling</td>
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<td>1,980</td>
<td>2,116</td>
<td>3,067</td>
<td>1,601</td>
<td>2,531</td>
<td>2,605</td>
</tr>
<tr>
<td>Other lodging</td>
<td>902</td>
<td>402</td>
<td>529</td>
<td>316</td>
<td>386</td>
<td>404</td>
<td>392</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
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<td>2,361</td>
<td>3,040</td>
<td>2,682</td>
<td>2,430</td>
<td>2,597</td>
<td>2,802</td>
</tr>
<tr>
<td>Household services</td>
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<td>501</td>
<td>733</td>
<td>941</td>
<td>672</td>
<td>862</td>
<td>727</td>
</tr>
<tr>
<td>Housekeeping and miscellaneous supplies</td>
<td>512</td>
<td>412</td>
<td>339</td>
<td>354</td>
<td>464</td>
<td>497</td>
<td>457</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
<td>2,067</td>
<td>1,372</td>
<td>1,592</td>
<td>1,239</td>
<td>1,637</td>
<td>1,849</td>
<td>1,710</td>
</tr>
<tr>
<td>Vehicle purchases (net outlay)</td>
<td>3,316</td>
<td>2,236</td>
<td>4,237</td>
<td>2,819</td>
<td>2,688</td>
<td>4,701</td>
<td>4,657</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
<td>1,112</td>
<td>952</td>
<td>1,158</td>
<td>952</td>
<td>911</td>
<td>1,250</td>
<td>1,254</td>
</tr>
<tr>
<td>Other vehicle expenses (repairs, insurance, lease, license, and other charges)</td>
<td>2,693</td>
<td>1,656</td>
<td>2,970</td>
<td>2,810</td>
<td>2,173</td>
<td>2,630</td>
<td>2,829</td>
</tr>
<tr>
<td>Public transportation</td>
<td>698</td>
<td>349</td>
<td>372</td>
<td>393</td>
<td>352</td>
<td>364</td>
<td>378</td>
</tr>
</tbody>
</table>

5.a. If the debtor resides in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, or Wyoming, except for a metropolitan area listed in clause b of this paragraph, actual annual expenditures by the debtor’s family that exceed the applicable amount for a category, based on the debtor’s available resources, shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>Debtor's Available Resources</th>
<th>Less than $5,000</th>
<th>$5,000 to $9,999</th>
<th>$10,000 to $14,999</th>
<th>$15,000 to $19,999</th>
<th>$20,000 to $29,999</th>
<th>$30,000 to $39,999</th>
<th>$40,000 to $49,999</th>
<th>$50,000 to $69,999</th>
<th>$70,000 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owned dwelling</td>
<td>1,189</td>
<td>1,182</td>
<td>2,000</td>
<td>1,859</td>
<td>2,259</td>
<td>3,675</td>
<td>4,551</td>
<td>6,650</td>
<td>12,220</td>
</tr>
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<td>3,151</td>
<td>2,974</td>
<td>3,441</td>
<td>3,252</td>
<td>3,406</td>
<td>2,228</td>
<td>1,834</td>
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<tr>
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<td>98</td>
<td>189</td>
<td>229</td>
<td>304</td>
<td>228</td>
<td>370</td>
<td>435</td>
<td>1,571</td>
</tr>
<tr>
<td>Utilities, fuels, and public services</td>
<td>1,189</td>
<td>1,310</td>
<td>1,467</td>
<td>1,779</td>
<td>1,534</td>
<td>2,148</td>
<td>2,232</td>
<td>2,607</td>
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</table>
### Household Services

<table>
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<th>272</th>
<th>331</th>
<th>428</th>
<th>430</th>
<th>451</th>
<th>603</th>
<th>1,817</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housekeeping and miscellaneous supplies</td>
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<td>227</td>
<td>405</td>
<td>391</td>
<td>408</td>
<td>492</td>
<td>558</td>
<td>698</td>
<td>990</td>
</tr>
<tr>
<td>Household furnishings and equipment</td>
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<td>590</td>
<td>776</td>
<td>897</td>
<td>1,118</td>
<td>1,549</td>
<td>1,681</td>
<td>2,394</td>
<td>3,762</td>
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<td>1,163</td>
<td>1,392</td>
<td>1,359</td>
<td>2,382</td>
<td>2,465</td>
<td>3,679</td>
<td>3,492</td>
<td>5,432</td>
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<tr>
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<td>553</td>
<td>643</td>
<td>842</td>
<td>974</td>
<td>1,085</td>
<td>1,243</td>
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<td>1,725</td>
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<td>Vehicle maintenance and repairs</td>
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<td>234</td>
<td>494</td>
<td>463</td>
<td>622</td>
<td>756</td>
<td>908</td>
<td>1,081</td>
<td>1,443</td>
</tr>
<tr>
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<td>274</td>
<td>453</td>
<td>590</td>
<td>716</td>
<td>881</td>
<td>929</td>
<td>1,137</td>
<td>1,369</td>
</tr>
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<td>304</td>
<td>451</td>
<td>703</td>
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<td>249</td>
<td>411</td>
<td>380</td>
<td>377</td>
<td>593</td>
<td>1,286</td>
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### (Debtor's Available Resources)

<table>
<thead>
<tr>
<th>Description</th>
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<th>$10,000 to $14,999</th>
<th>$15,000 to $19,999</th>
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<th>$30,000 to $49,999</th>
<th>$50,000 to $69,999</th>
<th>$70,000 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owned dwelling</td>
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<td>2,261</td>
<td>3,548</td>
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<td>6,609</td>
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<tr>
<td>Other lodging</td>
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<td>163</td>
<td>167</td>
<td>202</td>
<td>231</td>
<td>445</td>
<td>482</td>
</tr>
<tr>
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<td>1,250</td>
<td>1,592</td>
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<td>914</td>
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<td>563</td>
<td>523</td>
<td>447</td>
<td>455</td>
<td>620</td>
<td>620</td>
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<td>Household furnishings and equipment</td>
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<td>640</td>
<td>877</td>
<td>1,045</td>
<td>1,929</td>
<td>1,548</td>
<td>2,992</td>
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<td>Vehicle purchases (net outlay)</td>
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<td>1,646</td>
<td>1,991</td>
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<td>3,768</td>
<td>5,942</td>
</tr>
<tr>
<td>Gasoline and motor oil</td>
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<td>641</td>
<td>684</td>
<td>856</td>
<td>4,262</td>
<td>1,182</td>
<td>1,109</td>
<td>1,574</td>
</tr>
<tr>
<td>Vehicle maintenance and repairs</td>
<td>290</td>
<td>217</td>
<td>469</td>
<td>546</td>
<td>744</td>
<td>565</td>
<td>678</td>
<td>1,697</td>
</tr>
<tr>
<td>Vehicle insurance</td>
<td>987</td>
<td>247</td>
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<td>957</td>
<td>466</td>
<td>572</td>
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</table>

b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor's family that exceed the applicable amount for a category shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>Metropolitan Area</th>
<th>Los Angeles</th>
<th>San Francisco</th>
<th>San Diego</th>
<th>Portland</th>
<th>Seattle</th>
<th>Honolulu</th>
<th>Anchorage</th>
<th>Phoenix</th>
<th>Denver</th>
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<tbody>
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<td>6,290</td>
<td>5,458</td>
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<td>2,534</td>
<td>2,602</td>
<td>2,748</td>
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<td>663</td>
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<td>678</td>
<td>341</td>
<td>599</td>
<td>645</td>
<td>536</td>
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<td>1,990</td>
<td>2,044</td>
<td>2,272</td>
<td>2,011</td>
<td>2,657</td>
<td>2,577</td>
<td>2,128</td>
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<td>885</td>
<td>722</td>
<td>744</td>
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<td>505</td>
<td>505</td>
<td>508</td>
<td>578</td>
<td>540</td>
<td>570</td>
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# VOLUME 27, NUMBER 2 – AUGUST 1, 2000

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<th>Seattle</th>
<th>Honolulu</th>
<th>Anchorage</th>
<th>Phoenix</th>
<th>Denver</th>
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</thead>
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<td>and other charges)</td>
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<td>1,090</td>
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<table>
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<th>Location</th>
<th>Los Angeles</th>
<th>San Francisco</th>
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<th>Portland</th>
<th>Seattle</th>
<th>Honolulu</th>
<th>Anchorage</th>
<th>Phoenix</th>
<th>Denver</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Expenditures</td>
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<td>683</td>
<td>687</td>
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<td>9,286</td>
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<td>1,092</td>
<td>1,186</td>
<td>476</td>
<td>599</td>
</tr>
</tbody>
</table>

6. If the debtor is the only member of the household, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary.

<table>
<thead>
<tr>
<th>Debtor's Available Resources</th>
<th>Less than $5,000</th>
<th>$5,000 to $9,999</th>
<th>$10,000 to $14,999</th>
<th>$15,000 to $19,000</th>
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<td>194</td>
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7. If the debtor is a member of the household, and the household's annual expenditures for the category exceed the applicable amount for the category, based on the household's available resources, the debtor's annual expenditures for the category shall be presumed unnecessary.
<table>
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</tbody>
</table>

7. If the debtor's household consists of two (2) persons, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>Debtor's Available Resources</th>
<th>Less than $5,000</th>
<th>$5,000 to $9,999</th>
<th>$10,000 to $19,999</th>
<th>$20,000 to $29,999</th>
<th>$30,000 to $39,999</th>
<th>$40,000 to $49,999</th>
<th>$50,000 to $59,999</th>
<th>$60,000 to $69,999</th>
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<td>7,247</td>
</tr>
<tr>
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<td></td>
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<td></td>
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</tr>
<tr>
<td></td>
<td>374</td>
<td>305</td>
<td>313</td>
<td>390</td>
<td>569</td>
<td>470</td>
<td>519</td>
<td>757</td>
<td>867</td>
</tr>
<tr>
<td>Education</td>
<td>431</td>
<td>357</td>
<td>102</td>
<td>237</td>
<td>312</td>
<td>270</td>
<td>479</td>
<td>568</td>
<td>788</td>
</tr>
<tr>
<td>Life-and-other-personal-insurance</td>
<td>314</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td></td>
<td>180</td>
<td>255</td>
<td>316</td>
<td>344</td>
<td>363</td>
<td>678</td>
<td>568</td>
<td>867</td>
<td>867</td>
</tr>
</tbody>
</table>

8. If the debtor's household consists of three (3) persons, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

<table>
<thead>
<tr>
<th>Debtor's Available Resources</th>
<th>Less than $5,000</th>
<th>$5,000 to $9,999</th>
<th>$10,000 to $19,999</th>
<th>$20,000 to $29,999</th>
<th>$30,000 to $39,999</th>
<th>$40,000 to $49,999</th>
<th>$50,000 to $59,999</th>
<th>$60,000 to $69,999</th>
<th>$70,000 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food</td>
<td>9,512</td>
<td>9,247</td>
<td>9,377</td>
<td>9,691</td>
<td>4,291</td>
<td>4,875</td>
<td>5,596</td>
<td>5,516</td>
<td>7,249</td>
</tr>
<tr>
<td>Apparel</td>
<td>1,216</td>
<td>644</td>
<td>799</td>
<td>1,046</td>
<td>1,990</td>
<td>1,486</td>
<td>1,726</td>
<td>2,225</td>
<td>3,963</td>
</tr>
<tr>
<td>Health-insurance</td>
<td>696</td>
<td>802</td>
<td>1,476</td>
<td>1,370</td>
<td>1,986</td>
<td>1,459</td>
<td>1,666</td>
<td>1,393</td>
<td>1,666</td>
</tr>
<tr>
<td>Medical-services</td>
<td>294</td>
<td>467</td>
<td>966</td>
<td>656</td>
<td>554</td>
<td>729</td>
<td>598</td>
<td>774</td>
<td>899</td>
</tr>
<tr>
<td>Prescription-drugs</td>
<td>324</td>
<td>438</td>
<td>698</td>
<td>571</td>
<td>581</td>
<td>479</td>
<td>416</td>
<td>375</td>
<td>342</td>
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<tr>
<td>Medical-supplies</td>
<td>59</td>
<td>94</td>
<td>468</td>
<td>126</td>
<td>137</td>
<td>148</td>
<td>186</td>
<td>142</td>
<td>466</td>
</tr>
<tr>
<td>Personal-care-products-and-services</td>
<td>354</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>992</td>
<td>961</td>
<td>999</td>
<td>515</td>
<td>657</td>
<td>652</td>
<td>719</td>
<td>899</td>
<td>899</td>
</tr>
<tr>
<td>Education</td>
<td>468</td>
<td>246</td>
<td>498</td>
<td>495</td>
<td>222</td>
<td>246</td>
<td>478</td>
<td>669</td>
<td>685</td>
</tr>
<tr>
<td>Life-and-other-personal-insurance</td>
<td>475</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>169</td>
<td>246</td>
<td>298</td>
<td>959</td>
<td>335</td>
<td>430</td>
<td>540</td>
<td>658</td>
<td>658</td>
</tr>
</tbody>
</table>
### Annual Expenditures

<table>
<thead>
<tr>
<th>Description</th>
<th>Food</th>
<th>Apparel</th>
<th>Health insurance</th>
<th>Medical services</th>
<th>Prescription drugs</th>
<th>Medical supplies</th>
<th>Personal care products and services</th>
<th>Education</th>
<th>Life and other personal insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3,819</td>
<td>3,519</td>
<td>3,740</td>
<td>4,518</td>
<td>4,622</td>
<td>5,142</td>
<td>6,785</td>
<td>8,364</td>
<td>8,580</td>
</tr>
<tr>
<td><strong>Debtor’s Available Resources</strong></td>
<td><strong>Less than $5,000</strong></td>
<td><strong>$5,000 to $9,999</strong></td>
<td><strong>$10,000 to $14,999</strong></td>
<td><strong>$15,000 to $19,999</strong></td>
<td><strong>$20,000 to $29,999</strong></td>
<td><strong>$30,000 to $49,999</strong></td>
<td><strong>$50,000 to $69,999</strong></td>
<td><strong>$70,000 and over</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Food</th>
<th>Apparel</th>
<th>Health insurance</th>
<th>Medical services</th>
<th>Prescription drugs</th>
<th>Medical supplies</th>
<th>Personal care products and services</th>
<th>Education</th>
<th>Life and other personal insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td>6,405</td>
<td>6,451</td>
<td>4,692</td>
<td>4,443</td>
<td>4,561</td>
<td>4,641</td>
<td>6,165</td>
<td>8,606</td>
<td></td>
</tr>
<tr>
<td><strong>Debtor’s Available Resources</strong></td>
<td><strong>Less than $10,000</strong></td>
<td><strong>$10,000 to $14,999</strong></td>
<td><strong>$15,000 to $19,999</strong></td>
<td><strong>$20,000 to $29,999</strong></td>
<td><strong>$30,000 to $49,999</strong></td>
<td><strong>$50,000 to $69,999</strong></td>
<td><strong>$70,000 and over</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. If the debtor’s household consists of four (4) persons, actual annual expenditures by the debtor’s family that exceed the applicable amount for a category, based on the debtor’s available resources, shall be presumed unnecessary:

### Annual Expenditures

<table>
<thead>
<tr>
<th>Description</th>
<th>Food</th>
<th>Apparel</th>
<th>Health insurance</th>
<th>Medical services</th>
<th>Prescription drugs</th>
<th>Medical supplies</th>
<th>Personal care products and services</th>
<th>Education</th>
<th>Life and other personal insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td>4,204</td>
<td>4,508</td>
<td>4,603</td>
<td>4,852</td>
<td>6,430</td>
<td>6,307</td>
<td>7,573</td>
<td>9,116</td>
<td></td>
</tr>
<tr>
<td><strong>Annual Expenditures</strong></td>
<td><strong>Less than $10,000</strong></td>
<td><strong>$10,000 to $14,999</strong></td>
<td><strong>$15,000 to $19,999</strong></td>
<td><strong>$20,000 to $29,999</strong></td>
<td><strong>$30,000 to $49,999</strong></td>
<td><strong>$50,000 to $69,999</strong></td>
<td><strong>$70,000 and over</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- 465 -
Section 5. (1) An administrative order issued by the authority to withhold disposable pay shall be served upon the debtor's employer personally or by mail. A notice of the issuance of the order shall be provided to the debtor by regular first class mail. The order shall require the withholding and delivery to the authority of not more than ten (10) percent of the debtor's [debtors'] disposable pay, except that a greater percentage may be deducted upon the written consent of the debtor.

(2) The order shall state the amount or percentage to be withheld and the amount of the debt, the statutory and regulatory basis therefore, and the time withholding is to begin.

(3) The order shall continue to operate until the debt is paid in full with interest accrued and accruing thereon at the prescribed rate in the promissory note or applicable law and collection costs that may be charged to the borrower under the promissory note or applicable law. The order shall have the same priority as provided to a judicially ordered garnishment prescribed in KRS 425.506.

(4) An employer who has been served with an administrative order for withholding of earnings shall answer the order within twenty (20) days, and shall provide a copy to the debtor the first time that withholding occurs and each time thereafter that a different amount is withheld. The employer shall be liable to the authority for a lawfully due amount which the employer fails to withhold from disposable pay due the debtor following receipt of the order, plus attorneys' fees, costs, and, in the discretion of a court of competent jurisdiction, punitive damages.

(5) A withholding under this section shall not be grounds for discharge from employment, refusal to employ or disciplinary action.
against an employee subject to withholding under this section.

(6) The employer shall have no liability or further responsibility after property, completely, and timely fulfilling the duties under this section.

Section 6. (1) Whenever this administrative regulation requires delivery of a notice, subpoena, or other communication by personal service, the service shall be made by:

(a) An officer authorized under KRS 454.140 to serve process; or

(b) A person over the age of eighteen (18) years of age, who shall prove service by affidavit or by the signature of the person being served.

(2) Receipt of a notice or other communication by the debtor shall be rebuttably presumed if the person to be served or another adult with apparent authority at the place of residence or employment last known to the authority signs a receipt or refuses to accept the notice or communication after identification and offer of delivery to the person so refusing.

(3) In the case of an administrative order to withhold disposable pay served upon an employer, receipt shall be rebuttably presumed if:

(a) The person to whom the order is directed signs or refuses to sign a receipt; or

(b) His employee or agent with apparent authority signs or refuses to sign a receipt.

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel
APPROVED BY AGENCY: March 31, 2000
FILED WITH LRC: May 15, 2000 at 11 a.m.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARRS, July 11, 2000)

11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5.

RELATES TO: KRS 164.740 to 164.785
STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 264.748(4)
requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. This administrative regulation defines terms used in 11 KAR Chapter 5 pertaining to the Kentucky Tuition Grant Program and the College Access Program.

Section 1. Definitions. (1) "Academic term" means the fall or spring semester or their equivalence under a trimester or quarter system at a postsecondary education institution and shall not include summer sessions, except a summer quarter at an educational institution that uses a quarter system.

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

(3) "Authority" is defined by KRS 164.740(1).

(4) "Business school" is defined by KRS 164.740(3).

(5) "College Access Program" or "CAP" means the program of student financial assistance grants authorized under KRS 164.7535 to assist financially needy part-time and full-time undergraduate students attending an educational institution.

(6) "College" is defined by KRS 164.740(4).

(7) "Correspondence course" means a home study course that is:

(a) Provided by an educational institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution;

(b) Meets the following requirements:

1. When a student completes a portion of the instructional materials, the student takes the examinations that relate to that portion of the materials, and returns [returns] the examinations to the institution for grading;

2. [is] A home study course that provides instruction in whole or in part through the use of video cassettes or video discs in an academic year, shall be considered to be a correspondence course unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at an institution during the same academic year; and

3. [is] If a course is part correspondence and part residential training, the course shall be considered to be a correspondence course; and

(c) Does not include courses from the Kentucky Commonwealth Virtual University (KCVU).

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

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

(a) Offers an eligible program of study;

(b) As a condition of enrollment as a regular student, requires that the person:

1. Have a certificate of graduation from a school providing secondary education, or the equivalent of a certificate; or

2a. Be beyond the age of compulsory attendance in Kentucky; and

b. Have the ability to benefit from the training offered by the institution;

(c) For purposes of the College Access Program is, a business school, college, school of nursing or vocational school, and meets the requirements of 20 USC 1070b, 1070c, and 11068 to 11099; or

(10) "Eligible noncitizen" means an individual who is:

(a) Either:

1. A U.S. national;

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

(b) A person with a Departure Record (I-94) from the U.S. Immigration and Naturalization Service showing any one (1) of the following designations:

a. "Refugee";

b. "Asylum granted";

c. "Indefinite parole" or "humanitarian parole"; or

d. "Cuban-Haitian entrant";

(b) Not in the United States on a:

1. F1 or F2 student visa;

2. J1 or J2 exchange visa; or

3. G series visa.

(11) "Eligible program of study" means an undergraduate program offered by an educational institution which:

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

(b) For purposes of the Kentucky Tuition Grant Program, leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled; and

(c) For purposes of the CAP Grant Program, leads to a certificate, diploma, or degree in a field other than theology, divinity or religious education.

(12) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying the federal methodology established in 20 USC 1087k through 1087v to the information that the student and his family provided on the application.

(13) "Federal act" is defined by KRS 164.740(9) and means 20 USC 1001 through 1148a.

(14) "Full-time student" means an enrolled student who is carrying a full-time academic workload; other than by correspondence.

(a) That may include any combination of courses, work, research, or study; and

(b) Is determined by the institution under a standard applicable to all students enrolled in a particular educational program, except that for an undergraduate student, an institution's minimum standard shall
equal or exceed one (1) of the following minimum requirements:
1. Twelve (12) semester hours or twelve (12) quarter hours [in each of two (2) quarters] per academic term in an educational program using a semester, trimester, or quarter system;
2. Twenty-four (24) semester hours or thirty-six (36) quarter hours per academic year for an educational program using credit hours but not using a semester, trimester, or quarter system, or the prorated equivalent for a program of less than one (1) academic year;
3. Twenty-four (24) clock hours per week for an educational program using clock hours;
4. In an educational program using both credit and clock hours, any combination of credit and clock hours if the sum of the following fractions is equal to or greater than one (1):
   a. For a program using a semester, trimester, or quarter system, the number of credit hours per term divided by twelve (12) and the number of clock hours per week divided by twenty-four (24); or
   b. For a program not using a semester, trimester, or quarter system, the number of semester or trimester hours per academic year divided by twenty-four (24) and the number of quarter hours per academic year divided by thirty-six (36) and the number of clock hours per week divided by twenty-four (24);
5. A series of courses or seminars that equals, twelve (12) semester hours or twenty-four (24) quarter hours in a maximum of eighteen (18) weeks; or
6. The work portion of a cooperative education program in which the educational work performed is equivalent to the academic workload of a full-time student.

(15) "Grant" is defined by KRS 164.740(10).

(16) "Kentucky Tuition Grant" or "KTG" means the program of student financial assistance grants authorized by KRS 164.780 and 164.785 for residents of Kentucky who bear the major costs of attending an educational institution and who demonstrate financial need.

(17) "KHEA grant award" means an award of a student financial assistance grant under the College Access Program or the Kentucky Tuition Grant Program, or a combination of the two.

(18) "KHEA grant limit" means an aggregate limitation on KHEA grant awards to an individual which is:
   a. Measured in terms of the number of semesters during which a KHEA grant is disbursed to a full-time student and not fully refundable; and
   b. Depleted by one (1) semester;
   1. For a KHEA grant disbursed to a full-time student in a semester;
   2. By a CAP grant recipient enrolled less than full-time, who receives the cumulative equivalent amount of CAP grant that would have been received by a full-time CAP grant recipient using the then current maximum CAP grant.

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

(20) "Overaward" means receipt of financial assistance from all sources in excess of a student's need determined in accordance with KAR 6:120 through 6:148.

(21) "Part-time student" means an enrolled student who is carrying an academic workload:
   a. That may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as at least a half-time student, except that correspondence courses shall not be counted in determining the student's part-time status; and
   b. As determined by the institution under a standard applicable to all students enrolled in a particular educational program, except that for an undergraduate student, an institution's minimum standard shall equal or exceed one (1) of the following minimum requirements:
      1. At least six (6) semester hours;
      2. Six (6) quarter hours; or
      3. Half of the academic workload of a full-time student as determined by the educational institution.

(22) "Pell Grant" means an award under the federal Pell Grant Program operated by the secretary under the provisions of 20 USC 1070a [Title IV Part A, Subpart 1 of the federal act].

(23) "Resident of Kentucky" or "resident" means a person who is classified as an in-state student in accordance with the criteria established in 13 KAR 2045.

(24) "Total cost of education" means an amount determined for an academic year for each applicant by the following formula: normal tuition and fees charged by the institution chosen by the applicant, plus maximum board contract amount, plus minimum room contract amount.

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel
APPROVED BY AGENCY: March 31, 2000
FILED WITH LRC: May 15, 2000 at 11 a.m.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARRS, July 11, 2000)

11 KAR 5:034. CAP grant student eligibility.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535 [1994 Ky. Acts ch. 36]
STATUTORY AUTHORITY: KRS 164.748(4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4)
requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships provided in KRS 164.780 and 164.785. KRS 164.7535 requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7535 authorizes the Kentucky Higher Education Assistance Authority to administer grant programs of student financial assistance, including federal funds under the state student incentive grant program. 1994 Ky. Acts ch. 36 authorized and directed the authority to provide grants to assist financially needy part-time and full-time undergraduate students to attend educational institutions in Kentucky. That Act also authorized the authority to promulgate administrative regulations pertaining to administration of those grants, to use appropriated funds to match federal funds, and to conform those administrative regulations to federal law for full participation in the state student incentive grant program. This administrative regulation establishes student eligibility requirements for the college access program. [This amendment is necessary to reflect legislation]

Section 1. In order to qualify for disbursement of a college access program grant, a student shall:
   1. Be a resident of Kentucky;
   2. Be enrolled at an educational institution for at least six (6) semester hours or half-time as determined by the educational institution, whichever is greater, in an eligible program of study and not have previously earned a first baccalaureate or professional degree;
   3. Demonstrate financial need in accordance with 11 KAR 5:120 through 11 KAR 5:145 for CAP grant assistance;
   4. Have remaining KHEA grant limit. For purposes of a CAP grant, a student enrolled as a full-time student in each academic term of a two (2) year eligible program of study [institution] shall be limited to five (5) semesters of CAP [KHEA] grant program eligibility. A student enrolled as a full-time student in each academic term of a four (4) year eligible program of study [KHEA] grant program eligibility (including any KHEA grant limit used in [at] a two (2) year eligible program of study [institution]);
   5. Not receive financial assistance in excess of need to meet educational expenses;
   6. Maintain satisfactory progress in an eligible program of study according to the published standards and practices of the educational institution at which the student is enrolled;
   7. Satisfy all financial obligations to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 and to any educational institution, except that ineligibility for this reason may be waived by the executive director of the authority, at the recommendation of a designated staff review committee, for cause;
   8. Be a citizen of the United States or an eligible noncitizen; [end]
   9. Receive full-time credit at an educational institution in an eligible program of study and paying full-time tuition and fees to that
institution, if the student is studying abroad or off-campus; and
(10)(a) Be enrolled as a full-time student in at least one (1) quarter or as at least a part-time student in two (2) quarters of the fall academic term to receive a disbursement in the fall; and
(b) Be enrolled as a full-time student in at least one (1) quarter or as at least a part-time student in two (2) quarters of the spring academic term to receive a disbursement in the spring.

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel
APPROVED BY AGENCY: March 31, 2000
FILED WITH LRC: May 15, 2000 at 11 a.m.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARR's, July 11, 2000)

11 KAR 5:140. KTG award determination procedure.

RELATES TO: KRS 164.744(2) to 164.753(4), 164.760, 164.785
STATUTORY AUTHORITY: KRS 164.744(4), 164.745(1), 164.754(4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.744(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. [The Kentucky Higher Education Assistance Authority administers the Kentucky tuition grant program to provide financial assistance to students to attend Kentucky educational institutions.] This administrative regulation establishes [sees forth] the award determination procedures for the Kentucky tuition grant program. [This amendment is necessary to increase the KTG award amount.]

Section 1. [Definitions. For purposes of this administrative regulation, the terms listed below shall have the following meanings: Pell grant means an award under the Pell Grant Program operated by the Secretary under the provisions of Title IV, Part A, subpart 1 of the federal act.]

Section 2. [KTG Need. For each KTG eligible applicant, the KTG need shall be computed according to the following formula: KTG need equals total cost of education minus the sum of:
(1) Expected Pell grant;
(2) Expected family contribution; and
(3) CAP grant.]

Section 3. [KTG Award. (1) If an applicant does not qualify for a CAP grant and the KTG need is an amount equal to or greater than $200, the KTG shall be the lesser of the KTG need or the maximum grant authorized by KRS 164.785(3), except that KTG awards shall be offered only to the extent funds are available.
(2) If an applicant does not qualify for a CAP grant, and the KTG need is an amount less than $200, an award shall not be made.
(3) If an applicant has received a CAP award and KTG need is an amount equal to or greater than fifty ($50) dollars, the KTG award shall be the lesser of the KTG need or the maximum grant specified in Section 5 of this administrative regulation except that KTG awards shall be offered only to the extent that funds are available.
(4) A KTG shall not exceed $1,620 [4,596] for an academic year.

Section 4. [A KHEAA grant shall not exceed the cost of tuition and fees charged to the student during the academic year of the award. A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student’s actual cost for tuition, fees, and books.]

Section 5. (1) A [In no event shall the] KHEAA grant award shall not exceed the applicant’s total cost of education less expected family contribution and other anticipated student financial assistance. 
(2) The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the educational institution’s determination of financial need for that student.
(3) The KHEAA grant program officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

Section 6. (1) If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked.
(2) If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant for which the student was ineligible.

Section 7. (1) If the authority receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant and the grant has not yet been disbursed, the reduction shall be made to both the fall and spring disbursements, and the student shall be notified of the reduction.
(2) If the grant for the fall academic term has already been disbursed, then the reduction shall be made to the spring disbursement.
(3) If both the fall and spring disbursements have been made, the student shall repay the overaward to the authority.

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

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel
APPROVED BY AGENCY: March 31, 2000
FILED WITH LRC: May 15, 2000 at 11 a.m.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARR's, July 11, 2000)

11 KAR 5:145. CAP grant award determination procedure.

RELATES TO: KRS 164.744(2), 164.753(4), 164.760, 164.785
STATUTORY AUTHORITY: KRS 164.744(4), 164.753(4), 164.760, 164.785(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.744(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.760 requires the authority to promulgate administrative regulations pertaining to grants. [The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions.] This administrative regulation prescribes the award determination procedures for the CAP grant program. [This amendment is necessary to reflect changes made by 1994 Ky. Acts ch. 96.]

Section 1. Each application submitted pursuant to 11 KAR...
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

5:130 shall be reviewed for determination that all eligibility requirements established [set forth] in 11 KAR 5:034 are met. To qualify for a CAP award based on financial need, the applicant’s expected family contribution shall be $3,100 [4:569] or less.

Section 2. CAP Grant Award. (1) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a college on a full-time basis as determined by the educational institution shall be the prevailing tuition charge per semester credit hour at publicly supported community colleges in Kentucky at that time.

(2) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a college on less than a full-time basis as determined by the educational institution shall be the prevailing tuition charge per semester credit hour at publicly supported community colleges in Kentucky (not in excess of the maximum specified in subsection (1) of this section).

(3) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a business school, school of nursing, or vocational-school on a full-time basis as determined by the educational institution shall be the prevailing full-time student tuition charge at publicly operated vocational-technical institutions in Kentucky at that time.

(4) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a business school, school of nursing, or vocational school on less than a full-time basis, as determined by the educational institution, shall be the prevailing full-time student tuition charge at publicly operated vocational-technical institutions in Kentucky (not in excess of the maximum specified in subsection (3) of this section).

(5)(a) The maximum awards specified in subsections (1) and (2) of this section shall be adjusted by the authority as necessary to conform those maximums to the tuition rate generally charged for attendance at the Commonwealth’s publicly supported community colleges, as determined by the Kentucky Community and Technical College System.

(b) [Council on Higher Education] The maximum awards specified in subsections (3) and (4) of this section shall be adjusted by the authority as necessary to conform those maximums to the tuition rate generally charged for attendance at the Commonwealth’s publicly operated vocational-technical institutions as determined by the Kentucky Community and Technical College System.

(c) For academic year 2000-2001, fifty (50) dollars shall [may] be added to the maximum CAP grant specified in subsections (1) through (4) of this section. [Workforce Development Cabinet]

Section 3. Minimum CAP Grant. (1) The minimum CAP grant awarded to an eligible full-time student in an eligible program at a college shall be the lesser of:

(a) The prevailing full-time student tuition charge at publicly supported community colleges in Kentucky; or

(b) The amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

(2) The minimum CAP grant awarded to an eligible full-time student in an eligible program at a business school, school of nursing, or vocational school shall be the lesser of:

(a) The prevailing full-time student tuition charge at publicly operated vocational-technical institutions in Kentucky; or

(b) The amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

Section 4. (1) A KHEAA grant shall not exceed the cost of tuition and fees charged to the student during the academic year of the award.

(2) A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student’s actual cost for tuition, fees, and books.

(3) A semester award shall not exceed tuition and fee charges for that semester.

(4) A [No] KHEAA grant award shall not be made for a summer academic term.

Section 5. (1) A [in no event shall the] KHEAA grant award shall not exceed the applicant’s cost of education less expected family contribution and other anticipated student financial assistance.

(2) The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the determination of financial need for that student.

(3) The KHEAA grant program officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

Section 6. (1) If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked.

(2) If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 7. (1) If the authority receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant and the grant has not yet been disbursed, the reduction shall be made to both the fall and spring disbursements, and the student shall be notified of the reduction.

(2) If the grant for the fall academic term has already been disbursed, then the reduction shall be made to the spring disbursement.

(3) If both the fall and spring disbursements have been made, the student shall repay the overaward to the authority.

Section 8. (1) Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant.

(2) Any student who is awarded a KHEAA grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel
APPROVED BY AGENCY: March 31, 2000
FILED WITH LRC: May 15, 2000 at 11 a.m.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARRS, July 11, 2000)

11 KAR 5:160. Disbursement procedures.

RELATES TO: KRS 134.7535 [164.740 to 164.754], 164.780, 164.785

STATUTORY AUTHORITY: KRS [19A:166], 164.748(4), 164.753(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. [The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students attending Kentucky educational institutions.] This administrative regulation establishes [sets forth] the disbursement procedures for KHEAA grant programs. [This amendment is necessary to change the method of disbursement at educational institutions that use the academic quarter system.]

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

(2) The KGPO shall certify the eligibility of KHEAA grant recipients and return the roster to the authority according to instructions attached to the roster. If the KGPO fails to properly certify the roster or fails to return the roster to the authority by the deadline established in the
instructions, the authority shall not disburse [an] KHEEA grant funds in the next [following] academic term until the roster for that academic term is properly certified and returned.

Section 2. Disbursement of Funds. (1) KHEEA grant funds shall be disbursed by the authority twice during an academic year to educational institutions for subsequent delivery to eligible students. 
(a) Except as provided in Section 1(2) of this administrative regulation, a disbursement of KHEEA grant funds shall be made in August for subsequent delivery by the institution to eligible students enrolled for a semester or quarters beginning not earlier than June 1 and not later than December 31. The KGPO shall return to the authority, according to instructions attached to the roster, all funds advanced that remain undischarged to eligible students. Upon receipt of the properly certified eligibility verification roster[1] for that academic term, the authority shall transfer additional funds, if necessary, to the KGPO.
(b) Except as provided in Section 1(2) of this administrative regulation, a second disbursement of KHEEA grant funds shall be made in January for subsequent delivery by the institution to eligible students enrolled for a semester or quarters beginning not earlier than January 1 and not later than June 30. The KGPO shall return to the authority, according to instructions attached to the roster, all funds advanced that remain undischarged to eligible students. Upon receipt of the properly certified eligibility verification roster for that academic term, the authority shall transfer additional funds, if necessary, to the KGPO. [The KGPO shall return to the authority, according to instructions attached to the roster, all funds advanced that remain undischarged to eligible students.]

(2) The instructions accompanying the eligibility verification roster shall specify:
(a) Conditions under which a KHEEA grant shall be disbursed to the benefit of the KHEEA grant recipient;
(b) Conditions under which KHEEA grant funds shall be returned to the authority; and
(c) The dates by which the roster and any undisbursed funds shall be returned to the authority.
(3) An institution which has not returned an eligibility verification roster or completed it according to the instructions shall not receive additional KHEEA grant funds until it has complied with the instructions identified [satisfied the requirements] in subsection (2) of this section. [Furthermore] The authority[, in its sole discretion,] may withhold any services and funds from the educational institution from the due date until the roster and all funds advanced, that remain undisbursed to eligible students, are received by the authority.

Section 3. Alternative Disbursement. In lieu of the processes relating to the disbursement of KHEEA grant funds pursuant to Section 2 of this administrative regulation, the authority[, in its sole discretion,] may enter agreements with the educational institution on [such] terms as the authority deems appropriate to provide alternative methods for economical and efficient disbursement of KHEEA grants.

Section 4. (1) If the student submits to the authority a written request to receive the maximum KTG for which he is eligible during the fall semester and that request is received by the authority not later than the latter of August 1 or ten (10) work days following the date on which the authority notifies the student that the award for the fall academic term [preceding the fall academic term] for which a KTG is awarded, the entire amount of the KTG, up to the amount of tuition and fees charged for the fall academic term, may be disbursed for that academic term. Otherwise, a KTG awarded for the academic year shall be disbursed in the amount of one-half (1/2) for the fall academic term and one-half (1/2) for the spring academic term.
(2) An educational institution that uses an academic quarter system shall apply to the student's account or deliver to the student a KTG for an academic term so that the first disbursement occurs in the second quarter of enrollment as a full-time student and the second disbursement occurs in the third quarter of enrollment as a full-time student.

Section 5. (1) A CAP grant awarded for the academic year shall [always] be disbursed in the amount of one-half (1/2) for the fall academic term and one-half (1/2) for the spring academic term for enrollment in each academic term as a full-time student.
(2) A CAP grant for an academic year shall be divided by the number of semesters, trimesters or quarters in the academic year, [and] the amount of CAP grant disbursed in an academic term shall be prorated for enrollment as a part-time student during an academic term.
(3) An educational institution that uses an academic quarter system shall apply to the student's account or deliver to the student a CAP grant for an academic term so that the disbursement occurs in the second quarter of enrollment as at least a part-time student in the fall and spring academic terms. The maximum CAP grant amount that may be applied by the educational institution to a student's account or delivered to a student in the fall or spring academic terms may be added to credit hours for which the student enrolls in the fall and spring academic terms to establish enrollment as a full-time student during those academic terms.

Section 6. (1) [5] KHEEA grants [shall be] disbursed by the authority to eligible students enrolled at an educational institution that uses a short winter term in combination with longer fall and spring (winter) terms shall be applied by the institution to the student's account or delivered to the student so that the first disbursement shall be in the fall academic term and the second disbursement shall be in the spring academic term.
(2) Enrollment during the shorter winter academic term shall not qualify a student for KHEEA grant assistance for that academic term. However, credit hours for which the student is enrolled during the shorter winter academic term may be added to credit hours for which the student enrolls in the fall and spring academic terms to establish enrollment as a full-time student during those academic terms.

Section 7. (1) [6] The educational institution shall:
(a) Be responsible for proper disbursement of KHEEA grants;
(b) [The educational institution shall] Not make KHEEA grant funds available to the grantee for a business, school, or camp fee or tuition; and [The educational institution shall] Not make KHEEA grant funds available to the grantee for the purchase of a computer and related equipment;
(c) [The maximum CAP grant amount that can be disbursed in one (1) quarter to recipients attending business schools, schools of nursing, or vocational schools shall not exceed the tuition charges for one (1) quarter;
(d) [The institution shall] Be liable for disbursement to the wrong individual or to an ineligible student; and
(e) [The institution shall] Give the recipient's account number prior to the date that the recipient has completed the registration requirements (except for the payment of tuition and fees) at the institution for each academic semester or quarter for which the KHEEA grant is awarded;
(f) [The maximum CAP grant amount that can be disbursed in one (1) quarter to recipients attending business schools, schools of nursing, or vocational schools shall not exceed the tuition charges for one (1) quarter;
(g) [The institution shall] Be liable for disbursement to the wrong individual or to an ineligible student; and
(h) [The institution shall] Give the recipient's account number prior to the date that the recipient has completed the registration requirements (except for the payment of tuition and fees) at the institution for each academic semester or quarter for which the KHEEA grant is awarded;
(i) [The maximum CAP grant amount that can be disbursed in one (1) quarter to recipients attending business schools, schools of nursing, or vocational schools shall not exceed the tuition charges for one (1) quarter;
(j) [The institution shall] Be liable for disbursement to the wrong individual or to an ineligible student; and
(k) [The institution shall] Give the recipient's account number prior to the date that the recipient has completed the registration requirements (except for the payment of tuition and fees) at the institution for each academic semester or quarter for which the KHEEA grant is awarded;
(l) [The maximum CAP grant amount that can be disbursed in one (1) quarter to recipients attending business schools, schools of nursing, or vocational schools shall not exceed the tuition charges for one (1) quarter;
(m) [The institution shall] Be liable for disbursement to the wrong individual or to an ineligible student; and
(n) [The institution shall] Give the recipient's account number prior to the date that the recipient has completed the registration requirements (except for the payment of tuition and fees) at the institution for each academic semester or quarter for which the KHEEA grant is awarded;
Section 1. Definitions. (1) "Academic period" means one (1) semester or one (1) quarter or an equivalent period for a vocational technical institution.

(2) "Account" means the account in the program fund established and maintained under the trust for a beneficiary.

(3) "Account balance" means the fair market value of an account as of the accounting date.

(4) "Accounting date" means the date, not later than the last business day of each quarter as determined by the program administrator.

(5) "Administrative fund" is defined in KRS 164A.305(2).

(6) "Beneficiary" is defined in KRS 164A.305(3).

(7) "Benefits" is defined in KRS 164A.305(4).

(8) "Board" is defined by KRS 164A.305(5).

(9) "Dependent person" means a person who is unable to meet the criteria for an independent person as defined in subsection (14) of this section.

(10) "Designated date" means the date on which each beneficiary is eligible to be designated in a participation agreement.

(11) "Domicile" or "legal residence" means a person's true, fixed, and permanent home and is the place where the person intends to remain, and to which the person expects to return if absent without intending to establish a new domicile elsewhere.

(12) "Effective date" means the date which a participant may enter into a participation agreement with the trust, which is on or after July 1, 1989.

(13) "Higher education costs" is defined by KRS 164A.305(7).

(14) "Independent" means a person:

(a) Who has not been claimed by his parent as a dependent on a federal or state income tax return for the tax year preceding the date of application for reclassification of residency status;

(b) Who demonstrates no financial dependence upon a parent; and

(c) Whose parent's income is not taken into account by a private or governmental agency furnishing educational financial assistance to the person, including a scholarship, loan, or other assistance.

(15) "Institution of higher education" is defined in KRS 164A.305(8).

(16) "Kentucky ties" means a participant or beneficiary who has continuous ties with the Commonwealth, including current or former residence or employment in the Commonwealth, or a family member with current or former residence in the Commonwealth.

(17) "Notice to authorize payroll deduction" means the participant's written instruction to the participant's employer to deduct payments from the participant's earnings and forward that amount to the trust.

(18) "Notice to delay benefits under participation agreement" means the participant's written instruction to the program administrator of the trust to delay benefits under a participation agreement, after the beneficiary has attained the age of eighteen (18).

(19) "Notice to extend payments under participation agreement" means the participant's written instruction to the program administrator of the trust to extend payments under a participation agreement beyond the beneficiary's age of eighteen (18).

(20) "Notice to increase or decrease payments under participation agreement" means the participant's written instruction to the program administrator of the trust to increase or decrease payments under a participation agreement.

(21) "Notice to preauthorize debit" means the participant's written instruction to the participant's financial institution to debit or charge the participant's checking or savings account for payments due under the participation agreement.

(22) "Notice to substitute beneficiary" means the participant's written instruction to the program administrator of the trust to substitute a beneficiary.

(23) "Participant" means one (1) of the following:

(a) A person's father or mother; or

(b) A court-appointed legal guardian if the guardianship was not established primarily to confer Kentucky residency on the person.
administer the Social Security number of the recipient upon designation of the scholarship recipient.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel
APPROVED BY AGENCY: March 31, 2000
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COUNCIL ON POSTSECONDARY EDUCATION
(As Amended at ARRS, July 11, 2000)

13 KAR 2:020. Guidelines for admission to the state-supported postsecondary education institutions in Kentucky.

RELATES TO: KRS 156.160, 164.001, 164.011, 164.020(3), 164.050

STATUTORY AUTHORITY: KRS 164.020(8)
NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 164.020(8) the council sets the minimum qualifications for admission to the state-supported postsecondary education institutions. It is the intent of the council that all students (Kentucky residents shall) have available to them an opportunity for postsecondary education appropriate to their interests and abilities. This administrative regulation establishes the minimum qualifications related to admission to state-supported postsecondary education institutions. [This administrative regulation sets forth the minimum qualifications related to admission to state-supported postsecondary education institutions.]

Section 1. Definitions. (1) "Adult student" means a student who is twenty-one (21) years of age or older.
(2) "Council" is defined by KRS 164.001(7) (164.694(6)).
(3) "Foreign language" means a language that is not the primary language used at home.
(4) "Institution" or "institutions" means a state-supported postsecondary education institution as defined in KRS 164.001(10).
(5) "KCTCS" means the Kentucky Community and Technical College System as defined in KRS 164.001(11).
(6) [64] "Program of Studies for Kentucky Schools: Grades Primary-12" published by the Kentucky Board of Education.
(7) [65] "Remedial course" means a college or university class or section that prepares a student for college-level study and does not award credit toward a degree.
(8) [66] "System-wide standard" means a score of eighteen (18) or above on a mathematics, English, or reading subscale of the ACT Assessment.

Section 2. Minimum Qualifications for Institutional Admission as First-time Freshmen. (1)(a) Except as provided by paragraph (b) of this subsection, an applicant shall have [an-applicant-has] fulfilled the minimum requirements for admission to a degree program at a community or technical college or to a community college-type program at a university if the applicant has:
1. Graduated from a public high school or a certified nonpublic high school; or
2. Earned a high school general equivalency certificate (GED).
(b) [Provided; however, that] The Kentucky Community and Technical College System may exempt a student who is eligible to pursue a GED [entitled-in-a-certificate-or-diploma-program] from the requirements of paragraphs (a) and (b) of this subsection.
(c) An applicant to a community-college type program at a university shall take the ACT Assessment.
(2)(a) Except as provided in paragraph (b) of this subsection, and applicant shall have [An-applicant-has] fulfilled the minimum requirements for admission to a baccalaureate program at a university if

[when the applicant has:
1. (f) Graduated from a public high school or a certified nonpublic high school;
2. (fb) Completed the precollege curriculum established in Section 3 of this administrative regulation; and
3. (fc) Taken the ACT Assessment;
(b) (f) Provided; however: An applicant who has earned a high school general equivalency certificate (GED) or who is a graduate of a nonpublic high school shall include the minimum requirements for admission to a baccalaureate program at a university, may be admitted to a baccalaureate program at a university by taking the ACT Assessment and by scoring at a level on the subtests established by the university. An applicant shall satisfy the provisions of paragraph (a) of this subsection [satisfies the provisions of subsection (3) of this section] by taking the ACT Assessment and by scoring at levels on the ACT Assessment subtests that are established by a university.
(c) Notwithstanding the provisions of subsections (1) and (2) of this section, a university may substitute the SAT for the ACT Assessment. The ACT RESIDUAL ASSET Testing Program, COMPASS Testing Program, or ACCUPLACER Testing Program may be substituted for the ACT Assessment requirement for adult students.
(d) An institution shall establish a written policy for admitting a student if [where] an applicant has attended a noncertified or nonpublic school and completed a course of study. Noncertified or nonpublic schools shall include a home school.
(e) A nonresident seeking admission to a baccalaureate degree program at a university shall complete:
1. The ACT recommended college core courses for the precollege curriculum which is listed in the ACT High School Profile Report: High School Graduating Class 1999; or
2. A college preparatory curriculum comparable to Kentucky's precollege curriculum.
(b) Except as provided in Section 3(10)(e) of this administrative regulation, a nonresident shall meet the same minimum qualifications for admission as a Kentucky resident as established [stated] in subsections (1) through (4) of this section.
(c) A university may, under extenuating circumstances, admit a student who has not met [without fulfilling] the testing requirements of subsection (3)(a)(3) (fc) of this section if the university has:
(b) Provided; however, that a university shall have a written policy defining extenuating circumstances.
(c) If (e) When a university admits a student under paragraph (a) of this subsection [the provisions of subsection (3) of this section], the student shall satisfy the provisions of subsection (2)(a)(3) (fc) of the section during the first semester of enrollment.
(7) A university may establish, in writing, additional admission criteria to supplement those established by the council. [A Kentucky resident who has graduated from a public high school or a certified nonpublic high school, who has taken the ACT Assessment Test, and who will enroll in college classes for the first time following graduation from high school shall be generally granted admission to a community or technical college or community college-type program at an institution.
(c) The Career Planning Program Level II (CPP-Il), the ASSET testing program, or the COMPASS testing program may be substituted for the ACT Assessment Test for adult students, if the institution believes any of these testing instruments is better suited to the needs of adult students.
(b) The Kentucky Community and Technical College System may substitute the Test of Adult Basic Education (TABE) for an applicant to a technical college.
(c) A Kentucky resident who has graduated from a public high school or a certified nonpublic high school, who has taken the ACT Assessment Test, who has completed the minimum academic preparation, and who will enroll in college classes for the first time following graduation from high school has fulfilled the minimum requirements for admission to a baccalaureate program at a university. An institution may accept the Scholastic Aptitude Test (SAT) in lieu of the ACT Assessment Test. An institution may establish additional admission criteria to supplement these minimum requirements.
(d) A Kentucky resident who has earned a high school equivalency certificate (GED) or who is a graduate of a noncertified nonpublic high school may be admitted to:
(e) A community or technical college or community college-type program at an institution upon completion of the ACT Assessment Test.
1. The Career Planning Program Level II (CPP II); the ASSET testing program; or the COMPASS testing program may be substituted for the ACT Assessment Test requirement for an adult student.

2. The Kentucky Community and Technical College System may substitute the Test of Adult Basic Education (TABE) for an applicant to a technical college.

(b) A baccalaureate program at a university by meeting the minimum requirements specified in subsection (2) of this section. Completion of the minimum educational preparation may be validated through the minimum academic preparation credits, a score of 2200 or more on the ACT, appropriate scores on the SAT, or an equivalent score on the SAT of 1050.

(c) An institution shall establish a policy for the admission of a student to a technical college, community college, or a university where a Kentucky resident student has attended a noncertified nonpublic school and completed a course of study. Noncertified nonpublic schools shall include a home school. Except for the high school graduation or high school equivalency certificate (GED) requirements, all remaining requirements of subsections (2), (3), and (4) of this section shall apply to a student who has attended a noncertified nonpublic school and completed a course of study:

(5) A nonresident shall meet the same minimum qualifications for admission as a Kentucky resident as stated in subsections (1) through (4) of this section and at least one (1) of the following conditions in order to be admitted to a state institution:

(a) Graduate in the top fifty percent of their high school class;

(b) Achieve a composite score of 50 percent or above on all students taking the ACT or the SAT nationally (the ACT is the preferred admission test for Kentucky public institutions, and applicants are encouraged to take the ACT; however, each institution may accept the SAT in lieu of the ACT for resident and nonresident applicants);

(c) Demonstrate the ability to pursue the college academic program without substantial remedial education;

(6) If, under extenuating circumstances, a student is admitted conditionally without having fulfilled the testing requirement, the student shall take the ACT to fulfill this requirement during the first semester of enrollment.

Section 3. Precalculus Curriculum. (Minimum Academic Preparation and the Precalculus Curriculum) (1) Effective for the fall semester of 2000 (1999), an applicant to a baccalaureate degree program at an institution shall complete, in addition to the requirements of Section 2 of this administrative regulation, twenty (20) or more approved high school units in the following courses in the precalculus curriculum (describing the minimum academic preparation requirements shall be included in the baccalaureate program at each institution). The precalculus curriculum established in this section shall include the following categories and courses of study and is based on the Program of Studies. (An institution may establish additional requirements to supplement this minimum academic preparation):

(a) Four (4) units of high school study in English/language arts, specifically including English I, English II, English III, and English IV or AP English.

(b) Three (3) units of high school study in mathematics, including algebra I, algebra II and geometry. This mathematics requirement may be met by completing the integrated mathematics series consisting of three (3) units.

(c) Two (2) units of high school study in science, biology I and either chemistry or physics I. At least one (1) [of the] science course (courses) shall be a laboratory course.

(d) Two (2) units of high school study in social studies, that shall include world civilization and either U.S. history or AP American history.

(e) A college-bound student is encouraged to take, as part of his elective course selection, additional coursework in mathematics, science, foreign languages, arts, and computer literacy.

(f) A substitution shall not be made for any course which is identified in this subsection (4) of this section unless the course in question has been deemed equivalent in content by the Council on Postsecondary Education in consultation with the Department of Education.

(2) Effective for the fall semester of 2002, an applicant to a baccalaureate degree program at an institution shall complete, in addition to the requirements of Section 2 of this administrative regulation, twenty (20) or more approved high school units including the following courses in the precalculus curriculum (describing the minimum academic preparation requirements may be included in the baccalaureate program at each institution). The precalculus curriculum established in this section shall include the following categories and courses of study and is based on the Program of Studies. (An institution may establish additional requirements to supplement this minimum academic preparation):

(a) Four (4) units of high school study in English/language arts, specifically including English I, English II, English III, and English IV or AP English.

(b) Except as provided in subparagraphs 1, 2, and 3 of this paragraph, three (3) units of high school study in mathematics, including algebra I, algebra II, and geometry.

1. A student may substitute for algebra I a mathematics course whose content is more rigorous than that described in the Program of Studies.

2. Algebra II may be taken prior to high school and counted as a required mathematics [required] course if the academic content of the course is at least as rigorous as that listed in the Program of Studies.

3. Algebra II shall include the content and skills described in the Core Content for Mathematics Assessment.

(c) Three (3) units of high school study in science, to include physical science, life science, and earth and space science. At least one (1) unit shall be a laboratory course.

(d) Three (3) units of high school study in social studies, from the following content areas: United States history, economics, government, world geography, and world civilization.

(e) One-half (1/2) unit in health education.

(f) One-half (1/2) unit in physical education.

(g) One (1) unit in history and appreciation of visual and performing arts.

(h) Effective with the fall semester 2004, an applicant shall:

1. Complete two (2) units in the same foreign [language] unless the applicant's local school has:

   a. Diagnosed the [Provided; however when a local school has diagnosed] student as having a learning disability as set forth in KRS 157.200 and 707 KAR 1:280 or 707 KAR 1:310; and

   b. In [If] Determined that the learning disability precludes the [a] student from successfully completing the foreign language course(s) the student shall be exempt from the provisions of this subparagraph [where the academic content includes the spoken and written aspects of a nonnative language as well as the culture associated with that language]; or

2. Demonstrate linguistic competence and awareness of a foreign [nonnative] language [and culture] equivalent to two (2) years of high school language or

3. Complete two (2) units of English as a second language (ESL) and the culture associated with that language. The council shall adopt a policy by 2003 for assessing nonnative language competencies.

(a) Beginning with fall semester 2004, a student shall, in addition to the requirements of subsection (2) of this section, take seven (7) electives. Five (5) of the seven (7) electives shall be courses with academic content that is at least as rigorous as that required in the minimum high school graduation requirements and shall be in an approved area

(b) Beginning with the fall semester 2004, a student shall take five (5) electives. Three (3) of five (5) electives shall be courses with academic content that is at least as rigorous as that required in the minimum high school graduation requirements. An elective shall be in an approved area of study:

1. Social studies.


4. English/language arts.

5. Arts and humanities.

6. Physical education and health. A student shall be limited to
one-half (1/2) unit as an elective in physical education and to one-half (1/2) unit in health.

7. Foreign [Nonnative] language [where-the-academic-content includes spoken and written aspects of a nonnative language as well as the culture associated with the language].

8. Agriculture, industrial technology education, business education, marketing education, family and consumer sciences, health sciences, technology education and career pathways. The academic content shall be more rigorous than the introductory level as described in 703 KAR 4:060.

9. A college-bound student is encouraged to take, as part of an [his] elective course selection, additional coursework in mathematics, sciences, and arts.

(b) Beginning with the fall semester 2004, in addition to the requirements of subsection (2) of this section, a student shall take five (5) electives. Three (3) of the five (5) electives shall be courses with academic content that is at least as rigorous as that required in the minimum high school graduation requirements and shall be in an approved area of study set forth in paragraph (a) through (8) of this subsection.

(4)(a) A student may substitute an integrated, applied, interdisciplinary, or higher level course within a program of study for a course listed in subsections (1) or (2) of this section, if the substituted course offers at least 1 academic credit and the course covers or exceeds the minimum required content.

(b) Integrated mathematics [math] courses are intended to be taken as a sequence. A student shall choose either the algebra/geometry sequence or the integrated mathematics [math] sequence.

(c) An approved substitute course may [shall] include an honors course, advanced placement course, dual credit course, or a course taken at an institution.

(5) An institution may establish additional requirements to supplement this minimum academic preparation.

(6)(a) A waiver of a required precollege curriculum course may be justified if [when] [if]:

1. [es] A student is physically unable to complete a course because of a physical handicap;

2. [es] A student's handicapping condition is verified through appropriate documentation; and

3. [es] The school district superintendent (or designee) verifies that a student's handicapping condition will prevent the student from completing the course in question.

(b) [es] Following a determination that a student is unable to complete a course based upon paragraph (a) of this subsection (6)(a), a student shall not substitute another course in accordance with 704 KAR 3:305. Section 2(3) [a closely-related area may be substituted for the course that cannot be completed].

(7) [es] A course selection is tied to the Program of Studies and the individual course descriptions contained in that document. Adjustments in the minimum academic preparation for college shall occur as changes are made in the program of studies.) For guidance in the selection of a specific course, a counselor may consult the program of studies and Council materials on the precollege curriculum.

(8) [es] Each institution shall determine whether an applicant has met these minimum academic preparation requirements.

(9) [es] Effective with admissions for the fall semester of 2005; except as provided in subsection (3) of this section, a student admitted to a baccalaureate degree program at an institution shall be subject to the precollege curriculum. The precollege curriculum requirement shall apply to:

(a) A first-time freshman pursuing a baccalaureate degree with or without a declared major;

(b) A student converting from nondegree status to baccalaureate degree status;

(c) A student changing from certificate or associate-degree level to baccalaureate-degree level; and

(d) A student transferring from another institution, who has been admitted to baccalaureate-degree status by the receiving institution. [A degree-seeking student shall be assigned a degree-level code.]

(10) [es] The following shall be exempted from the requirements of the precollege curriculum:

(a) An adult student;

(b) A student entering baccalaureate-degree status with twenty-four (24) or more semester credit hours applicable to a baccalaureate degree with a GPA (grade point average) of at least 2.00 on a 4.00 scale;

(c) Active duty military personnel, their spouses, and their dependents; [es]

(d) A student enrolled in a community or technical college or a community college type program;

(e) A nonresident student or

(f) An international student.

Section 4. Conditional Admissions Qualifications. (1) A university [Subject to the requirements and limitations established by the council; an institution] shall have the option of admitting conditionally a first-time freshman applicant to a baccalaureate [or-associate] degree program [or diploma or certificate program] who has not met the requirements of Section 3 of this administrative regulation [minimum academic preparation qualifications for admission]. A first-time freshman admitted conditionally shall remove or otherwise satisfy all academic deficiencies [regarding the minimum academic preparation] in a manner and time period established by the enrolling institution.

(2) An institution enrolling students in a baccalaureate degree program under the conditional admission provisions in subsection (1) [force section 4(4)] of this section shall admit conditionally each academic term not more than five (5) percent of a base figure. The base figure shall be the average number of students reported as enrolled with baccalaureate-degree status over the preceding four (4) years.

(3) Although not subject to the precollege curriculum for admission purposes, the precollege curriculum status of students enrolled in a [technical college community college or] community college type program in a university shall be assessed and reported to the Council on Postsecondary Education [as to their] precollege curriculum status.

(4) [Section 5. Special Students. (1)] An applicant of superior ability, as demonstrated by exceptional academic achievement, a high ACT Assessment score, and social maturity, may be granted early admission. An applicant granted early admission by an institution shall be exempt from the provisions of Sections 2 and 3 of this administrative regulation.

(5) [es] At the discretion of the institution, a person who does not [an applicant unable to] meet college entrance requirements, including high school students, may enroll in [be admitted to a] college courses as a nondegree student [class for which he is qualified].

[es] A Kentucky resident sixty-five (65) or older who is admitted to an institution shall have all registration and tuition charges waived. An institution may limit admission to the institution if classes are filled, or if admission necessitates creating additional classes.

Section 5. [Section 5. General Policy on Nonresident Enrollment. (1)] An institution providing a scholarship to a nonresident student, regardless of the source or nature of the scholarship, shall count that student as a nonresident student for purposes of this policy and reporting to the council.

(2) A student from another state or country shall be accepted by an institution if the nonresident enrollment does not inhibit the educational opportunities of a Kentucky resident. An institution may establish additional admission criteria consistent with this administrative regulation.

Section 6. Transfer Students. (1) The council's general education transfer policy and baccalaureate program transfer frameworks policy shall provide the basis for an institution's policy [institutional policies] on the acceptance of transfer credits. The American Association of Collegiate Registrars and Admissions Officers' "Transfer Credit Practices of Educational Institutions" shall serve as a reference for admission of transfer students to an institution and for the acceptance of transfer credits. [Generally, a student dismissed from a college or university shall not be accepted at an institution for the semester following his dismissal. Failure by a student to report enrollment at another institution may result in dismissal and loss of credits earned.]

(2) A state-supported institution shall assure that a transferring student receives academic counseling concerning the transfer of credit among institutions.

(3) An institution, consistent with the provisions of subsection (1) of this section, shall accept a student's college credit earned when a
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

course is taken both for high school credit and college credit. Credit
earned through [such] a dual enrollment arrangement shall be treated
the same as credit earned in any other college course.

Section 6. Assessment and Placement of Students. (1) The as-
essment and placement policy of the council shall be effective with
the fall semester 2001 and shall apply to:
(a) A first-time freshman enrolled in an associate or baccalaureate
degree program or a certificate or diploma program at an institution;
(b) A student who transfers from a degree program at one (1)
institution into a baccalaureate degree program at another institution
and who has not taken and successfully passed college-level courses
in mathematics and English;
(c) A student who transfers from a certificate or diploma program
into a degree program and who has not taken and successfully
passed college-level courses in mathematics and English.
(d) A student converting from nondegree status to degree status
who has not taken and successfully passed college-level courses in
mathematics and English.
(2) A nondegree-seeking student shall be [be exempt from sys-
stem-wide mandatory assessment and placement policies.
(3) A university shall use the ACT Assessment to evaluate student
competencies in mathematics, English, and reading. A university may
accept scores on the SAT in lieu of the ACT Assessment for place-
ment in college-level courses. A university may use an institutional
placement exam as a supplement to the ACT Assessment to help
place a student in the proper course.
(4)(a) A university shall place a student who scores below the
system-wide standard in mathematics, English, or reading in an:
1. [if] Appropriate remedial course in the relevant discipline; or
2. (b) Entry-level college course, if the course offers supplemen-
tary academic support, such as extra class sessions, additional lab,
tutoring, and increased monitoring of students, beyond that usually
associated with an entry-level course.
(b) [This] [Provided; however, that] A university may set a cut-off
score above the system-wide standard to place a student.
(5) An adult student who has been admitted without the ACT As-
essment test or the SAT may be placed into an appropriate course
using:
(a) The ACT Residual Test;
(b) The ASSET Testing Program;
(c) The COMPASS Testing Program;
(d) The ACCUPLACER Testing Program;
(e) An institutional placement test.
(6) A university shall be [be responsible for determining the reme-
diation required including the number of remedial courses required, if
remediation is required.
(7)(a) KCTCS shall select campus placement tests for the com-
munity and technical colleges that assess mathematics, English, and
reading skills. This requirement also shall apply to the Lexington
Community College.
(b) KCTCS shall ensure that the same campus placement tests
are used by the Technical College Branch and the Community College
Branch to assess degree-seeking students.
(c) KCTCS and the Lexington Community College may use the
ACT Assessment scores or SAT scores to place a student into an
appropriate course.
(8) The KCTCS and the Lexington Community College shall place
a degree-seeking student who scores below the system-wide standard
in mathematics, English, or reading in an:
(a) Appropriate remedial course in the relevant discipline; or
(b) Entry-level college course if the course offers supplementary
academic support, such as extra class sessions, additional lab,
tutoring, and increased monitoring of students, beyond that which is
usually associated with an entry-level course.
(9) KCTCS shall develop guidelines for use at the community and
technical colleges that will determine the remediation required in
mathematics, English, or reading based upon placement test scores.
This requirement also shall apply to the Lexington Community Col-
lege.
(10)(a) KCTCS shall develop assessment and placement policies
for students who enroll in certificate and diploma programs.
(b) For each certificate and diploma program, KCTCS shall de-
temine the proper cut-off scores for placing students and the stan-
dards for exiting remedial instruction.
(c) Provided however, KCTCS may exempt students enrolled in
selected certificate and diploma programs from an assessment and
placement in mathematics, English, and reading.
(11) Effective with the spring semester 2001, an institution shall
report to the council data that monitors the performance of first-time
freshmen in remedial and entry-level courses. The core elements of the
first-time freshmen performance monitoring system shall include,
as appropriate:
(a) ACT or SAT scores;
(b) Institutional placement exam results;
(c) Information that identifies whether a course is remedial, entry-
level, or entry-level with supplementary academic support provided;
and
(d) Grades in remedial and entry-level courses.

Section 7. [8-Remedial Placement. (1) The council shall adopt a
policy on remedial placement by June 30, 1999, that provides mini-
imum standards for placement of a student in a college-level course.
(2) An institution shall adopt, no later than the end of calendar
year 1999, a policy on placement of a student in a college-level course
to be effective no later than the fall semester of the year 2000. The
institutional policy shall use an assessment system that:
(a) Meets or exceeds the minimum-level of the policy developed
by KCTCS for the base assessment and placement policy section;
(b) Evaluates whether a student meets entry-level standards in
mathematics, English and reading;
(c) Requires a student who does not meet the entry-level stand-
ards to enroll in appropriate remedial-level courses and pass them
with a grade of 'C' or higher, and
(d) Requires an institution to use placement tests for assigning
students to the appropriate-level courses.
(3) The Kentucky Community and Technical College System shall
establish uniform placement policies for the two (2) branches, the
Technical College Branch and the University of Kentucky Community
College Branch.

Section-9] Incorporation by Reference. (1) The following material
is incorporated by reference:
(a) The "Program of Studies for Kentucky Schools, Grades Pri-
mary-12", [April-26] 1998, Kentucky Department of Education;
(b) "Core Content for Mathematics Assessment", Version 3.0,
1999; [4-6-1996] Kentucky Department of Education;
(c) "General Education Transfer Policy", 1995, Council on Post-
secondary Education; and
(d) "Baccalaureate Program Transfer Frameworks", 2000-2001
[1998-2000] [1998-99], Council on Postsecondary Education; and
(e) "ACT High School Profile Report: High School Graduating
Class 1999", ACT, Inc.
(2) This material may be inspected, copied or obtained at the
Council on Postsecondary Education, 1024 Capital Center Drive,
Suite 320, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30
p.m.

GORDON K. DAVIES, President
DENNIS L. TAULBEE, General Counsel
APPROVED BY AGENCY: June 8, 2000
FILED WITH LRC: June 8, 2000 at 3 p.m.

KENTUCKY ATHLETIC COMMISSION
(As Amended at ARRS, July 11, 2000)

201 KAR 27:005. Definitions.

RELATES TO: KRS 229.011
STATUTORY AUTHORITY: KRS 229.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171
authorizes the commission to provide the sole direction, manage-
ment, control, and jurisdiction over all professional boxing,
sparring, and wrestling matches or exhibitions to be conducted,
held or given within the Commonwealth. This administrative
regulation establishes the definitions used in this chapter. [KRS
229.180 provides that the Kentucky Athletic Commission is authorized

- 476 -
Section 1. Definitions. The following terms shall have the meaning assigned herein:

(1) "Bout" means a contest or exhibition;

(2) "Card" means contests and exhibitions scheduled or occurring as part of a program or show of contests and exhibitions to which a single ticket authorizes admittance, and which is under the jurisdiction of the Kentucky Athletic Commission;

(3) "Chairman" means the Chairman of the Kentucky Athletic Commission;

(4) "Commission" means the Kentucky Athletic Commission;

(5) "Commissioner" means a member of the Kentucky Athletic Commission;

(6) "Contest" means an engagement in which the boxers, kick boxers, or contestants in an elimination event strive earnestly in good faith to win;

(7) "Contestant" means any person participating in boxing, wrestling, elimination events or kick boxing matches, shows or exhibitions coming under the jurisdiction of the Kentucky Athletic Commission;

(8) "Elimination event" means a boxing show where the winner of each match continues to box against additional opponents in a tournament format until an overall winner is determined;

(9) "Employee" means any employee of the Kentucky Athletic Commission;

(10) "Judge" means an official licensed and approved by the Kentucky Athletic Commission other than a referee, who shall have a vote in determining the winner of any contest;

(11) "Kick boxing" means a boxing show where the participants are allowed to throw kicking or foot blows at the opponent in addition to regular punching with the hands;

(12) "License" means the written authority to engage in the business of conducting, holding, giving, or officiating at, or participating in, boxing, wrestling, elimination events or kick boxing matches, shows or exhibitions;

(13) "Manager" means any person, including an agent, managing, handling, booking, directing, or in any other way directly or indirectly acting for or with a contestant in obtaining and participating in any match, show or exhibition, whether for compensation or not;

(14) "Matchmaker" or "booker" means any person, including an agent, who brings together professional boxers, kick boxers, or wrestlerevents, arranges professional boxing contests or wrestling matches or shows;

(15) "Medical examination" includes all physical, mental and psychological examinations;

(16) "Official" means any announcer, judge, physician, referee, or timekeeper;

(17) "Permit" means written permission for a licensees to engage in conduct, hold, or give a professional boxing, wrestling, elimination event or kick boxing match, show or exhibition at a specific date and hour and at a specific place;

(18) "Physician" means an individual licensed in any state to engage in the general practice of medicine and surgery;

(19) "Professional" means a person who competes in a boxing contest or wrestling exhibition for a purse, or teaches or pursues or assists in the practice of boxing or wrestling as a means of obtaining a livelihood or pecuniary gain;

(20) "Promoter" means any individual, corporation, association, partnership or club who has been issued a license to promote and conduct professional boxing, wrestling, elimination events or kick boxing matches, shows or exhibitions within this Commonwealth and who is responsible for or who oversees the arranging, organizing, matchmaking, and booking of a show;

(21) "Participant" shall mean any person aiding, assisting or advising a contestant during a boxing or kick boxing match, show or exhibition;

(22) "Show" means any organized grouping of boxing matches, wrestling matches, elimination event matches or kick boxing matches or exhibitions occurring under the jurisdiction of the Kentucky Athletic Commission;

(23) "Sparring" means practice boxing, in which a boxer receives, lands or attempts to land blows from or on another person as part of a practice or training exercise; and

(24) "Trainer" means any person who participates in the training of any contestant provided that training occurs within this Commonwealth.

"Amateur" shall mean a person who competes in boxing, sparring, wrestling contests and exhibitions where no purses are awarded to participants, and who has never received any purse or other article of value either for the expenses of training therefor or for participating in any boxing, sparring or wrestling contest or exhibition, and where the prize competed for shall not in value exceed thirty-five ($35) dollars or, in boxing, a maximum amount established by the United States Amateur Boxing Federation.

"Bout" shall mean a contest or exhibition;

"Card" shall mean contests and exhibitions scheduled or occurring as part of a program of contests and exhibitions to which a single ticket authorizes admittance.

"Chairman" means the chairman of the Kentucky Athletic Commission;

"Club" means any person, corporation, association or partnership conducting boxing, kick boxing, or elimination event matches, shows or exhibitions under the jurisdiction of the Kentucky Athletic Commission.

"Commission" means the Kentucky Athletic Commission;

"Commissioner" means a member of the Kentucky Athletic Commission;

"Contest" shall mean an engagement in which the boxers or entrants are in good faith to win;

"Contestant" shall mean any person participating in boxing, wrestling, elimination events or kick boxing matches, shows or exhibitions coming under the jurisdiction of the Kentucky Athletic Commission;

"Elimination event" shall mean a boxing show where the winner of each match continues to box against additional opponents in a tournament format until an overall winner is determined;

"Employee" means any employee of the Kentucky Athletic Commission;

"Exhibit" shall mean an engagement in which the participants show or display their skill without necessarily striving to win;

"Judge" shall mean a person other than a referee, who shall have a vote in determining the winner of any boxing or contest;

"Kick boxing" shall mean a boxing show where the participants are allowed to throw kicking or foot blows at the opponent in addition to regular punching with the hands;

"License" means the written authority to engage in the business of conducting, holding, giving, or officiating at, or participating in, boxing, wrestling, elimination events or kick boxing matches, shows or exhibitions;

"Manager" means any person, including an agent, managing, handling, booking, directing, or in any other way directly or indirectly acting for or with a contestant in obtaining and participating in any match, show or exhibition, whether for compensation or not;

"Matchmaker" or "booker" means any person, including an agent, who brings together professional boxers, kick boxers, or wrestlers or arranges professional boxing contests or wrestling events;

"Manager" means any person, including an agent, managing, handling, booking, directing, or in any other way directly or indirectly acting for or with a contestant in obtaining and participating in any match, show or exhibition, whether for compensation or not;

"Match" means one (1) of the contests which make up a show;

"Matchmaker" or "booker" shall mean any person, including an agent, who brings together professional boxers or wrestlers or arranges professional boxing contests or wrestling exhibitions;

"Medical examination" includes all physical, mental and psychological examinations;

"Official" means any announcer, judge, physician, referee, or timekeeper;

"Participant" shall mean a boxer or wrestler who takes part in a contest or exhibition;

"Permit" means a written permission for licensees to engage in conduct, hold, or give a professional boxing, wrestling, elimination event or kick boxing match, show or exhibition at a specific date and hour and at a specific place;

"Professional" shall mean a person who competes in a boxing contest or wrestling exhibition for a purse, or teaches or pursues or assists in the practice of boxing or wrestling as a means of obtaining a
livelihood or pecuniary gain;

(26) "Promoter" means any individual, corporation, association, partnership or club who has been issued a license to promote and conduct professional, boxing, wrestling, elimination events or kickboxing matches, shows or exhibitions within this Commonwealth;

(27) "Purse" or "ring earnings" shall mean the financial guarantee or any other remuneration or part thereof, for which professional boxers or wrestlers are participating in a contest or exhibition;

(28) "Ring officials" shall include referees, judges and timekeepers.

(29) "Second" means any person aiding, assisting or advising a contestant during a boxing match, show or exhibition.

(30) "Show" means any organized grouping of boxing matches, wrestling matches, elimination event matches or kickboxing matches or exhibitions coming under the jurisdiction of the Kentucky Athletic Commission.

(31) "Sparring" shall mean practice boxing, in which a boxer receives, lands or attempts to land blows from or on another person as part of a practice or training exercise.

(32) "Trainer" means any person who participates in the training of any contestant provided such training occurs within this Commonwealth.

(33) "Commission" means the Kentucky Athletic Commission.

(34) "Commissioner" means a member of the Kentucky Athletic Commission.

(35) "Chairman" means the chairman of the Kentucky Athletic Commission.

(36) "Employee" means any employee of the Kentucky Athletic Commission.

(37) "Official" means any announcers, judges, physicians, referees, or timekeepers.

(38) "Contestant" means any person participating in boxing, wrestling, elimination events or kickboxing matches, shows or exhibitions coming under the jurisdiction of the Kentucky Athletic Commission.

(39) "Trainer" means any person who participates in the training of any contestant provided such training occurs within this Commonwealth.

(40) "Manager" means any person managing, handling, booking, directing and any other way directly or indirectly acting for or with a contestant in obtaining and participating in any match, show or exhibition, whether for compensation or not.

(41) "Second" means any person aiding, assisting or advising a contestant during a boxing match, show or exhibition.

(42) "Show" means any organized grouping of boxing matches, wrestling matches, elimination event matches or kickboxing matches or exhibitions coming under the jurisdiction of the Kentucky Athletic Commission.

(43) "Club" means any person, corporation, an association or partnership conducting boxing, kickboxing, or elimination event matches, shows or exhibitions under the jurisdiction of the Kentucky Athletic Commission.

(44) "License" means the written authority to engage in the business of conducting, holding, giving, or officiating at, or participating in, boxing, wrestling, elimination event or kickboxing matches, shows or exhibitions.

(45) "Permit" means a written permission for licensee to engage in conduct, hold, or give a professional boxing, wrestling, elimination event or kickboxing match, show or exhibition at a specific date and hour and at a specific place.

(46) "Promoter" means any individual, corporation, association, partnership or club who has been issued a license to promote and conduct professional, boxing, wrestling, elimination events or kickboxing matches, shows or exhibitions within this Commonwealth.

(47) "Elimination event" means a boxing show where the winner of each match continues to box against additional opponents in a tournament format until an overall winner is determined.

(48) "Kickboxing" means a boxing show where the participants are allowed to throw kicks or fist blows at the opponent in addition to regular punching with the hands.

(49) "Match" means one (1) of the contests which make up a show.

JACK KERNS, Chairman

DOUGLAS SCOTT PORTER, Assistant Attorney General
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: April 3, 2000 at 2 p.m.

KENTUCKY ATHLETIC COMMISSION
(As Amended at ARRS, July 11, 2000)

201 KAR 27:010. General requirements for boxing, elimination events, kickboxing, matches, shows, or exhibitions.

RELATES TO: KRS 229.071(2), 229.171
STATUTORY AUTHORITY: KRS 229.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171
authorizes the commission to provide the sole direction, management, control, and jurisdiction over all professional boxing, sparring, and wrestling matches or exhibitions to be conducted, held or given with the Commonwealth. [KRS 229.171 states that the commission is given the sole control, authority and jurisdiction over professional boxing and all persons who participate therein.] This administrative regulation establishes [sets forth] the general requirements for boxing, elimination events, and kickboxing matches, shows, or exhibitions.

Section 1. The proposed program for a show shall be filed with the commission at least five (5) business days prior to the date of the show. Notice of any change in a program or any substitutions in a show shall be immediately filed with the commission.

Section 2. (1) Before the commencement of a show, all changes or substitutions shall be:
(a) Announced from the ring; and
(b) [In addition, notice of any change or substitution shall be]
Posted in a conspicuous place at the ticket office.
(2) Purchasers of tickets shall be entitled, upon request [by them], to a refund of the purchase price of the tickets, provided the request is made before the commencement of the show.

Section 3. For boxing, elimination events, and kickboxing shows row the nearest the ring on all four (4) sides shall be under the exclusive control of the commission.

Section 4. The ring specifications for boxing, kickboxing, and elimination events shall be as follows:

(1) All matches shall be held in a roped ring with the following specifications:
(a) It shall not be less than sixteen (16) feet square inside the ropes;
(b) The floor of the ring shall extend beyond the ropes for a distance of not less than one (1) foot;
(c) The floor of the ring shall be elevated not more than four (4) feet above the arena floor; and
(d) It shall have steps to enter the ring on two (2) sides.

(2) The ring shall be formed of ropes with the following specifications:
(a) There shall be three (3) ropes extended in a triple line at the following heights above the ring floor:
1. Eighteen (18) inches;
2. Thirty-five (35) inches; and
3. Fifty-two (52) inches.
(b) The ropes shall be at least one (1) inch in diameter;
(c) The ropes shall be wrapped in a clean, soft material and
drawn taut;
(d) The ropes shall be held in place with vertical straps on each of the four (4) sides of the ring; and
(e) A fourth rope may be used subject to approval of the commission.

(3) The ropes shall be supported by ring posts that shall be:
(a) Made of metal or other strong material;
(b) Not less than three (3) inches in diameter;
(c) At least eighteen (18) inches from the ropes; and
(d) Wrapped in soft clean material.

(4) The ring floor shall be padded or cushioned with a clean, soft material that:
Section 7. Scales. Scales used for any weigh-in shall be approved in advance by the commission.

Section 8. Duty to Safeguard Premises. All promoters shall safeguard and provide security at the premises where contests or exhibitions are conducted to insure to the commission's satisfaction that adequate protection against disorderly conduct has been provided. Any disorderly act, assault or breach of decorum on the part of any licensee at the [such] premises shall be [is] prohibited.

JACK KERNS, Chairman
DOUGLAS SCOTT PORTER, Assistant Attorney General
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: April 13, 2000 at 2 p.m.

KENTUCKY ATHLETIC COMMISSION
(As Amended at ARRS, July 11, 2000)

201 KAR 27:012. Wrestling requirements.

RELATES TO: KRS 229.021, 229.081, 229.171
STATUTORY AUTHORITY: KRS 229.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171

Section 1. Requirements for the wrestling ring and the immediately surrounding area.

(a) All matches shall be held in a roped ring with the following specifications:
(1) It shall not be less than fourteen (14) feet square inside the ropes;
(2) The floor of the ring shall extend beyond the ropes for a distance of not less than one (1) foot;
(b) The floor of the ring may be elevated not more than four (4) feet above the arena floor; and
(c) The ropes shall be extended over the edge of the platform; and
(d) The floor shall weigh not less than eighty (80) ounces of which weight no more than one (1) ounce shall be in the wrist padding of the ropes.

(b) The ring ropes shall be attached to the ring posts by turnbuckles that are padded with a soft vertical pad at least six (6) inches in width. All matches shall be held in a roped ring not less than sixteen (16) feet square inside the ropes; and the floor of the ring shall extend beyond the ropes for a distance of not less than one (1) foot; and shall be elevated not more than four (4) feet above the arena floor; and shall be padded with stops for the use of those properly entitled to enter the ring on two (2) sides:
(1) The ring shall be formed of posts and ropes, with ropes extending in a triple line eighteen (18) inches, thirty-five (35) inches and fifty-two (52) inches above the ring floor; and with ropes not to be less than one (1) inch in diameter and wrapped in clean, soft material. Ropes shall be held in place with vertical stops on each of the four (4) sides. A fourth rope may be used subject to prior approval by the commission;
(2) Turnbuckles shall be made of metal or other strong material not less than three (3) inches in diameter and not nearer the ropes than eighteen (18) inches and shall be wrapped in soft, clean material;
(3) The floor shall be padded with clean, soft material, to be approved by the commission; of not less than one (1) inch in thickness and extending over the edge of the platform, with a covering of canvas or similar material tightly stretched;
(4) Turnbuckles shall be padded with a safe, vertical pad at least six (6) inches in width;
(5) A bell or horn shall be used by the timekeeper in indicating the time.

(c) Equipment Supplied by Promoter. In addition to the ring and ring equipment, the promoter shall supply the following items, which shall be available for use as needed:
(1) A public address system in good working order;
(2) Judges and timekeepers chairs elevated sufficiently to provide an unobstructed view of the ring and the ring floor;
(3) Items for each contestant's corner including:
(a) A chair or chair;
(b) A clean bucket;
(c) A clean water bottle;
(d) Towels;
(e) Rubber gloves and
(f) An adequate supply of water and fresh ice;
(g) A complete set of numbered round cards;
(h) A container of powdered resin;
(i) A clean stretcher and a clean blanket, placed under or adjacent to the ring throughout each program;
(7) First aid oxygen apparata or equipment;
(8) Gloves for each boxer in each contest or exhibition. The gloves shall:
(a) Weigh not less than eight (8) ounces of which weight no more than one (1) ounce shall be in the wrist padding of the glove;
(b) Be new for main events and for contests and exhibitions scheduled for ten (10) or more rounds; and
(c) Be thumbless or thumbblock gloves approved by the commission or unless otherwise directed or authorized by the commission. Equipment supplied by promoter. In addition to the ring and ring equipment, the promoter shall supply the following items, which shall be available for use as needed:
(1) A public address system in good working order;
(2) Judges and timekeepers chairs elevated sufficiently to ensure unobstructed view of the ring and the ring floor;
(3) A stool or chair, a clean bucket, a clean water bottle, towels, rubber gloves, and an adequate supply of water and fresh ice for each boxer's corner;
(4) A complete set of numbered round cards;
(5) A container of powdered resin;
(6) A clean stretcher and a clean blanket, placed under or adjacent to the ring throughout each program;
(7) First aid oxygen apparatus or equipment;
(8) Gloves for each boxer in each contest or exhibition. Gloves shall weigh not less than eight (8) ounces of which weight no more than one (1) ounce shall be in the wrist padding of the gloves. Gloves shall be new for main events and for contests and exhibitions scheduled for ten (10) or more rounds. For all contests and exhibitions, thumbless or thumbblock gloves approved by the commission shall be used, unless otherwise directed or authorized by the commission. Buckets, water buckets, stools, towels, rubber gloves, and other articles as are necessary in the show shall be furnished in sufficient number and quantity by the promoter.
3. Resin:
4. Blood; and
5. Any other foreign object or substance.

(a) The ring ropes shall be attached to the ring posts by turnbuckles that are padded with a soft vertical pad at least six (6) inches in width.
(b) The ring shall have an area of at least six (6) feet between the edge of the ring floor and the first row of spectator seats on all four (4) sides of the ring.
(c) A partition, barricade, or some type of divider shall be placed between:
   (a) The first row of the spectator seats and the six (6) foot area surrounding the ring; and
   (b) The entry lane for wrestlers to enter the ring and the spectator area.

(1) Be clean, sanitary and free from grit, dirt, resin, or other foreign substances including blood;
(2) Be no smaller than fourteen (14) by sixteen (16) feet by fourteen (14) by sixteen (16) feet and shall have no fewer than three (3) ropes; and
(3) Wrestling mats required for ring. The mat covering the ring in boxing cards must not be used when wrestling cards are staged. Separate mats conforming to the specifications of the commission are required.

(4) Have an area of at least six (6) feet between the edge of the ring and the first row of spectator seats on all four (4) sides of the ring. Some type of fencing, ropes, or other barricade may be used to separate this area from the spectators.

(5) A partition, barricade, or some type of divider must be placed between the first row of the audience and the six (6) foot buffer zone as well as any entry lane for the wrestler to enter the ring.

Section 2. Changes and Substitutions. (1) Before the beginning of a wrestling show, all changes or substitutions in the advertised program of wrestling shall be posted at the ticket window and at the entrance to the facility.

(2) Changes or substitutions shall also be announced in the ring before commencement of the first match along with the information that any ticket holder desiring a refund based on those announced changes or substitutions shall be entitled to receive a refund before commencement of the program.

(3) Purchasers of tickets shall be entitled, upon request by them, to a refund of the purchase price of such tickets, if the request is made before the commencement of the first match.

Section 3. Notification Requirement. (1) A licensed wrestler who has made a commitment to participate in a professional match and is unable to participate, for any reason, shall notify the promotor of the inability to participate as soon as possible.

(2) Failure to notify the promotor in a timely manner shall constitute grounds for possible disciplinary action by the commission.

Section 4. Prohibited Activities. While participating in a professional match, a wrestler, manager, or second shall not:

(1) Use, or direct another person to use, any object or tactic to intentionally cut:
   (a) Himself;
   (b) An opponent; or
   (c) Any other participant in the show;

(2) Use any pyrotechnic during the show on:
   (a) Another wrestler;
   (b) Manager; or
   (c) Second;

(3) Intentionally cause himself or his opponent to bleed while participating in an exhibition or appearing at the site of a show.

(4) Not use, or be instructed to use, any object or tactic to intentionally cut either himself, his opponent or any other participant in the show:

(a) Not use any pyrotechnic on another wrestler, manager or second during the course of the show;

(b) Be dressed in clean attire which is in good taste;

(c) Be personally clean and neat in appearance; and

(d) Wear soft soled shoes or no shoes.

Section 5. The following provisions shall relate to wrestling "fakes":

(1) Both shoulders pinned to the canvas for the referees count of three (3) shall constitute a fall. Flying and rolling falls shall not count.

(2) Conceding a fall, or quitting because of having received punishment from a legitimate hold, constitutes a fall; and

(3) The referee shall not place his hands under the shoulders of a contestant unless necessary to determine a fall.

Section 6. No wrestling contestant, second, or any other participant in the wrestling show shall engage in any wrestling activity outside of the partitioned area that separates the ring area or entry lane from the spectators. 

Section 7. (1) In the conduct of a wrestling match, a contestant shall:

(a) Use only legitimate holds or methods known to wrestling;

(b) Refrain from grasping or hanging onto clothing, ring or ropes for support or to gain a competitive advantage; and

(c) Break within a count of three (3); when ordered to do so by the referee.

Section 8. Any violation of this or any other administrative regulation the provisions of subsection (1) of this section may result in disqualification of a contestant, at the discretion of the referee. Flagrant violations which result in injury to a contestant, participants or member of the audience may result in suspension or revocation of a [contestant’s] license, at the discretion of the commission.

Section 9. Where Wrestling Must Take Place. All wrestling or entertainment must take place either in the ring or within the partitioned-off portion of the gym or arena. No physical activity is permitted between contestants or other wrestlers in the audience or outside of the safety partition.

Section 10. Duty to Safeguard Premises. All promoters shall safeguard and provide security for the premises where contests or exhibitions are conducted to insure to the commission’s satisfaction that adequate protection against disorderly conduct has been provided. Any disorderly act, assault or breach of decorum on the part of any licensee at such premises is prohibited.

JACK KERNS, Chairman
DOUGLAS SCOTT PORTER, Assistant Attorney General
APPROVED BY AGENCY: April 13, 2000
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KENTUCKY ATHLETIC COMMISSION
(As Amended at ARRS, July 11, 2000)

201 KAR 27:013. Scoring and conduct of boxing, kick boxing, and elimination events.

RELATES TO: KRS 229.101, 229.131, 229.171
STATUTORY AUTHORITY: KRS 229.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171 states that the commission is given the sole control, authority and jurisdiction over professional boxing, kick boxing, and elimination events and all persons who participate therein. This administrative
regulation establishes the requirements for the scoring and [sets forth the rules relative to the] conduct of all forms of boxing matches. The following administrative regulation applies to boxing, kick boxing, and elimination events.

Section 1. Judges, physicians, referees, and timekeepers shall be selected, licensed, and assigned by the commission.

Section 2. Decisions shall be rendered as follows:
(1) If a contest lasts the scheduled limit, the winner of the contest shall be decided by:
(a) A majority vote of the judges if three (3) are used; or
(b) A majority vote of the judges and the referee if two (2) judges are used.
(2) Decisions shall be based primarily on effectiveness, giving credit for:
(a) Clean, forceful hitting;
(b) Aggressiveness;
(c) Defensive work; and
(d) Ring generalship, and deducting points for an opposite showing.

Section 3. Scoring shall be as follows:
(1) Each round in boxing shall be accounted for on the score card, using the ten (10) point must system. Scoring shall be in ratio of merit and demerit, the difference displayed by the contestants.
(2) Score cards shall be:
(a) Signed;
(b) Handled to the referee in the ring; and
(c) Filed by him with the commissioner or employee of the commission in attendance.
(3) The decision shall then be announced from the ring.

Section 4. Bouts and rounds shall be as follows:
(1)(a) Boxing or kick boxing rounds shall:
1. [fe] Be of either two (2) or three (3) minutes duration; and
2. [fe] Have not less than a one (1) minute rest period between rounds.
(b) A boxing or kick boxing bout shall consist of one (1) of the following number of rounds:
1. Four (4);
2. Six (6);
3. Eight (8);
4. Ten (10); or
5. Twelve (12). [fe] Bouts shall consist of either four (4); six (6); eight (8); ten (10); or twelve (12) rounds.
(2)(a) Elimination rounds shall:
1. [fe] Not exceed ninety (90) seconds duration; and
2. [fe] Have not less than a one (1) minute rest period between rounds.
(b) Elimination [fe] bouts shall not exceed three (3) rounds.

Section 5. Requirements for boxing gloves shall be as follows:
(1) For boxing, contestants shall wear boxing gloves which shall be:
(a) Clean and sanitary;
(b) Furnished by the promoter;
(c) Of equal weight;
(d) Not less than eight (8) ounces; and
(e) Thumbless or thumb-attached.
(2) For elimination events:
(a) Contestants shall wear boxing gloves and headgear which shall be:
1. Clean and sanitary;
2. Furnished by the promoter;
3. Clearly labeled with the promoter's name;
4. Of equal weight;
5. Not less than sixteen (16) ounces; and
6. Thumbless or thumb-attached.
(b) Contestants shall not be allowed to provide substitute gloves or headgear.
(3) For kick boxing:
(a) Contestants shall wear boxing gloves which shall be:
1. Clean and sanitary;
2. Furnished by the promoter;
3. Of equal weight;
4. Not less than eight (8) ounces; and
5. Thumbless or thumb-attached.
(b) Contestants shall also wear padded kick boxing boots on their feet approved by the commission.
(4) Gloves for all main matches shall be new and shall be put on in the ring subject to the discretion of the commissioner or employee of the commission.
(5) Breaking, roughing, or twisting of gloves shall not be permitted.
(6) The laces on gloves shall be tied on the back of the wrist and taped.

Section 6. Requirements for bandages shall be as follows:
(1)(a) For boxing and kick boxing only soft cotton or linen bandages shall be used for the protection of the boxer's hands.
(b) Bandages shall not be more than two (2) inches in width and twelve (12) yards in length for each hand.
(2) For elimination events bandaging of the hands shall not be allowed.
(3)(a) Medical adhesive tape not more than one (1) inch in width may be used to hold bandages in place.
(b) Adhesive tape shall not be lapped more than one-eighth (1/8) of one (1) inch.
(c) Adhesive tape not to exceed one (1) layer shall be crossed over the back of the hand for its protection.
(d) Three (3) strips of adhesive tape, lapping not to exceed one-eighth (1/8) of one (1) inch, may be used for protection of the knuckles.

Section 7. Requirements for knock downs shall be as follows:
(1) If a contestant is knocked to the floor by his opponent or falls from weakness or other causes, his opponent shall:
(a) Immediately retire to the farthest neutral corner of the ring; and
(b) Remain there until the referee completes his count or signals a resumption of action.
(2)(a) The timekeeper shall commence counting off the seconds and indicating the count with a motion of the arm when the contestant is down.
(b) The referee shall pick up the count from the timekeeper.
(3) If a contestant fails to arise before the count of ten (10), the referee shall declare him the loser by waving both arms to indicate a knockout.
(4) If a contestant who is down arises during the count, the referee may, if he deems it necessary, stop between the contestants long enough to assure himself that the contestant just arisen is in condition to continue the match.
(5) If [should a] contestant who is down arises [arise] before the count of ten (10) is reached and again goes down from weakness or the effects of a previous blow, without being struck again, the referee shall resume the count where he left off.
(6) At the discretion of the referee, a standing eight (8) count may be used.
(7)(a) If a contestant is knocked down three (3) times during a round, the contest shall be stopped.
(b) The contestant scoring the knock downs shall be the winner by a technical knockout.
(c) This rule may be waived by the commission upon the request of both contestants.
(d) Any request for waiver shall be made prior to the beginning of the show.
(8)(a) [When a] round, other than the last round, ends before a contestant who was knocked down rises, the bell shall ring and the count shall continue.
(b) If the contestant fails to arise before the count of ten (10), the referee shall declare him the loser by waving both arms to indicate a knockout.

Section 8. A failure to resume a match shall be as follows:
(1) If a contestant fails to resume the match for any reason after a rest period, or leaves the ring during the rest period and fails to be in the ring when the bell rings to begin the next round, the referee shall count him out the same as if he were down in that round.
(2) If a contestant who has been knocked out of or has fallen out
of the ring during a match fails to return immediately to the ring and be
on his feet before the expiration of ten (10) seconds, the referee shall
count him out as if he were down.

Section 9. A contestant shall be considered "down" when:
(1) Any part of his body other than his feet is on the ring floor; or
(2) He is hanging helplessly over the ropes and in the judgment of
the referee, he is unable to stand; or
(3) He is rising from the "down" position.

Section 10. (1) The following shall be considered fouls:
(a) Hitting below the belt;
(b) Hitting an opponent who is down or who is getting up after
having been down;
(c) Holding an opponent and deliberately maintaining a clinch;
(d) Holding an opponent with one (1) hand and hitting the
other;
(e) Butting with head or shoulder or using the knee;
(f) Hitting with inside or butt of the hand, the wrist, or the elbow,
and all backhand blows except for those backhand blows allowable in
kick boxing;
(g) Hitting or "flicking" with the glove open or thumbing;
(h) Wrestling, or roughing, against the ropes;
(i) Purposely going down without having been hit;
(j) Deliberately striking at the part of opponent's body over the
kicking area;
(k) Use of the pivot blow or rabbit punch or any physical action
which may injure a contestant;
(l) Use of abusive or profane language; or
(m) Failure to obey the referee.
(2)(a) A contestant who commits a foul may be disqualified and
the decision awarded to his opponent by the referee.
(b) The referee shall immediately disqualify a [do-so-if] contest-
ant who commits a deliberate and willful foul which incapacitates his
opponent.
(3) Any contestant committing a foul may be disciplined by the
commissioner or employee of the commission.
(4)(a) If a match is temporarily stopped by the referee, due to
accidental fouling, the fouling, with the aid of the physician, if neces-
sary, shall decide whether the contestant who has been fouled is in
physical condition to continue the match.
(b) If in their opinion the contestant's chances have not been seri-
ously jeopardized, as a result of the foul, he shall order the match
resumed after a reasonable time, the time to be set by the referee, but
not exceeding five (5) minutes.
(5)(a) If a contestant is unable to continue as the result of an acci-
dental foul and the match is in one (1) of the first three (3) rounds,
the match shall be declared a technical draw.
(b) If the foul occurs after the third round, or if an injury sustained
from an accidental foul in the first three (3) rounds causes the contest
to be subsequently stopped, the contest shall be scored on the basis
of the judges' scorecards.

Section 11. The following shall be prohibited:
(1) "Bate royal"; and
(2) Use of excessive grease or any other substance which may
handicap an opponent.

Section 12. Boxer Repeatedly Knocked Out or Otherwise De-
teated. (1) A boxer or kick boxer who has been repeatedly knocked
out and severely beaten shall be retired and not permitted to box
again if, after subjecting him to a thorough examination by a physician,
the commission declares the action is necessary in order to protect the
health and welfare of the boxer.
(2) A boxer or kick boxer who has suffered six (6) consecutive
defeats by knockout shall not be allowed to box again until he has
been investigated by the commission and examined by a physician.
(3) A boxer or kick boxer [contestant] whose license is under
suspension in any other jurisdiction may be allowed to participate in
any boxing, kick boxing, or elimination match only after review and
approval of the case by the commission or employee of the com-
mission.
(4) Any boxer who has been knocked out shall be prohibited from
all contact for sixty (60) days.
(5) Any boxer who has suffered a technical knockout shall be
prohibited from contact for thirty (30) days.

Section 13. Sex of Boxers. No boxer shall engage in any boxing
or sparring with a member of the opposite sex.

Section 14. Age of a Boxer. (1) Unless special permission
otherwise is granted by the commission:
(a) A boxer under nineteen (19) years of age is permitted to
box no more than six (6) rounds;
(b) A boxer nineteen (19) years of age is permitted to box no
more than eight (8) rounds;
(c) A boxer twenty (20) years of age is permitted to box no
more than ten (10) rounds; and
(d) For all bouts over ten (10) rounds, each boxer shall be at
least twenty-one (21) years of age.
(2) No person over the age of thirty-nine (39) shall box with-
out first submitting a complete physical and medical autoriza-
tion or release completed within fifteen (15) days of the sched-
uled bout. [Age of Boxers: Unless special permission otherwise is
granted by the commission; boxers under nineteen (19) years of age
are permitted to box no more than six (6) rounds; boxers nineteen (19)
years of age, eight (8) rounds; boxers twenty (20) years of age ten
(10) rounds; and for all bouts over ten (10) rounds, each boxer in such
bouts shall be at least twenty-one (21) years of age. No person over
the age of thirty-nine (39) without first submitting a complete physical
and medical authorization/release completed within fifteen (15) days of the
scheduled bout.]

JACK KERNS, Chairman
DOUGLAS SCOTT PORTER, Assistant Attorney General
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KENTUCKY ATHLETIC COMMISSION
(As Amended at ARRS, July 11, 2000)

201 KAR 27:014. Female boxing guidelines.

RELATES TO: KRS 229.101, 229.131, 229.171
STATUTORY AUTHORITY: KRS 229.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171
states that the commission is given the sole control, authority and
jurisdiction over professional boxing, kick boxing, and elimination
events and all persons who participate therein. This administrative
regulation establishes [see-forth] the rules relative to the conduct of
all forms of boxing matches involving female participants.

Section 1. Except as provided in this administrative regulation
[herein], all bouts between female contestants [participants] shall be

Section 2. The following requirements apply to all bouts be-
tween female contestants:
(1) The maximum number of rounds shall be ten (10);
(2) The length of each round shall be two (2) minutes;
(3) The rest period between rounds shall be one (1) minute;
(4) A contestant shall not wear facial cosmetics during the
bout;
(5) A contestant with long hair shall secure her hair with soft
and nonabrasive material;
(6) Weight classes shall be those established in 201 KAR
27:030, Section 8;
(7) A contestant shall wear a properly-fitted:
(a) Breast protector;
(b) Groin protector; and
(c) Mouthpiece;
(8) The gloves shall be properly fitted and the sizes shall be
as follows:
(a) A contestant weighing no more than 154 lbs. shall wear
eight (8) ounce gloves; and
(b) A contestant weighing over 154 lbs. shall wear ten (10)
ounce gloves; and
(9) A contestant shall provide the results of a pregnancy test indicating a negative finding which was taken within one (1) week prior to the bout. The following guidelines apply specifically to bouts involving female boxers:

(1) All bouts shall be scheduled for no more than ten (10) rounds with each round lasting two (2) minutes, and with one (1) minute between rounds.

(2) Female boxers shall use no facial cosmetics and have their hair secured with soft and nonabrasive material.

(3) The weight classes shall be the same as used by male boxers.

(4) Female boxers shall wear breast protectors and groin protectors that are both properly fitted and a mouthpiece is also required.

(5) Glove sizes: Female boxers up to 154 pounds shall use eight (8) ounce gloves and female boxers over 154 pounds shall use ten (10) ounce gloves properly fitted.

(6) All female boxers must provide a negative pregnancy test prior to each bout. The test may be taken prior to the bout, but not longer than one (1) week before the bout.

JACK KEARN, Chairman
DOUGLAS SCOTT PORTER, Attorney General
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KENTUCKY ATHLETIC COMMISSION
(As Amended at ARRS, July 11, 2000)

201 KAR 27:015. Prompt payment of fees, fines and forfeitures required.

RELATES TO: KRS 229.091(1), 229.171, 229.991
STATUTORY AUTHORITY: KRS 229.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171

This administrative regulation establishes the fees to be paid to the officials at a boxing show, kick boxing show, or elimination event and provides the other requirements for compensation or payment. It is intended to assure that licensees pay all fees, fines and forfeitures owed to the Commonwealth in a prompt manner.

Section 1. All compensation agreements shall be in writing and submitted to the commission for approval not less than five (5) calendar days prior to the date of the proposed show.

Section 2. Compensation shall not be paid to any contestant in advance unless by prior approval of the commission.

Section 3. A promoter shall not pay any part of the compensation due to managers, contestants, or their agents, if the manager or contestant or agent owes the Commonwealth of Kentucky any fees, fines, forfeitures, or other funds incurred in conducting, holding, giving, officiating at, or participating in, boxing, kick boxing, elimination events, wrestling matches, shows, or exhibitions.

Section 4. Before the commencement of any boxing, elimination event, kick boxing show or exhibition, the promoter of the show or exhibition shall tender to the commissioner or an employee of the commission a check or money order made payable to each official who will officiate the show or exhibition in the amount prescribed by the schedule of compensation for officials established under §39.092 in Section 5 of this administrative regulation.

Section 5. The schedule for compensation to be paid in advance to officials participating in a professional show shall be as follows:

(1) Judges for elimination events (minimum three (3)) - $150 [185] each per day.

(2) Judges for boxing shows or kick boxing shows (minimum three (3)) - seventy-five (75) [fifty [55]] dollars each.

(3) Timekeeper for:

(a) Boxing shows or kick boxing shows - seventy-five (75) [fifty [55]] dollars; and

(b) Elimination event - $150 [185] per day.

(4) Physician for elimination events - $225 [250] per day.

(5) Physician for boxing shows, or kick boxing shows and elimination events - $225 [250].

(6) Referee for elimination events (minimum two (2)) - $150 [185] per day.

(7) Referees for boxing shows and kick boxing shows - $100 [125] dollars each. If there are more than thirty (30) scheduled rounds, a minimum of two (2) referees shall be required.

Section 6. If a show or exhibition is cancelled, with less than twenty-four (24) hours notice to the commission, officials shall be paid one-half (1/2) of the compensation required by this administrative regulation.

JACK KEARN, Chairman
DOUGLAS SCOTT PORTER, Assistant Attorney General
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KENTUCKY ATHLETIC COMMISSION
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201 KAR 27:035. Seconds.

RELATES TO: KRS 229.171
STATUTORY AUTHORITY: KRS 229.180
NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171

This administrative regulation establishes the guidelines that shall be followed by persons acting as seconds.

Section 1. (1) Seconds shall report to and be under the general supervision of the commissioner or employee of the commission in attendance at the show.

(2) Seconds shall obey all orders of the commissioner or employee.

Section 2. Seconds shall be governed by the law and administrative regulations of the commission.

Section 3. Any violation, by seconds, of the law or administrative regulations of the commission may be sufficient cause for disqualification of the contestant, for whom they act, by the referee or judges.

Section 4. Seconds shall not act as managers unless so licensed.

Section 5. Seconds shall not be more than three (3) in number, and only two (2) shall be allowed in the ring at the same time.

Section 6. Seconds shall be equipped with first aid kits and the necessary supplies for proper attendance upon their contestants.

Section 7. Seconds shall leave the ring at the timekeeper’s ten (10) seconds whistle before the beginning of each round of a boxing match, kick boxing match, or elimination event match removing all equipment. None of this equipment shall be placed on the ring floor until after the bell has sounded at the end of the round or period.

Section 8. Seconds shall not throw towels or other articles into the ring.

Section 9. Seconds shall wear surgical gloves at all times while carrying out their duties.

Section 10. Seconds may be ejected from a match or excluded
from future matches based on a violation of these administrative regulations.

JACK KERNS, Chairman
DOUGLAS SCOTT PORTER, Assistant Attorney General
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: April 13, 2000 at 2 p.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARR's, July 11, 2000)

301 KAR 1:130. Live bait for personal use.

RELATES TO: KRS 150.010, [165.925], 150.170, 150.175, 150.340, 150.450.
STATUTORY AUTHORITY: KRS [165.925], 150.025
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025
authorizes the department to promulgate administrative regulations establishing the procedures for taking fish and creel and the areas from where fish and creel may be taken. This administrative regulation establishes the procedures for the taking of live bait and restricts use to personal use, if it is necessary to control the manner of taking of bait species in order to utilize and conserve the populations. This amendment is necessary in order to allow the use of larger casts nets at Cumberland Lake.

Section 1. Definitions. (1) Live bait includes minnows, shad, herring, crayfish, salamanders, all frogs except bullfrogs, all tadpoles, native lampreys, Asiatic clams (Corbicula sp.) and aquatic organisms except mussels.
(2) “Minnows” means all fishes under six (6) inches in length, except basses (largemouth, small mouth or Kentucky), rock bass, goggle-eye, trout, crappie, walleye, sauger, pike, white bass, yellow bass, rockfish (saltwater striped bass) and muskelunge, or any hybrids of the above.

Section 2. Live bait may only be taken with the following gear for personal use only, and any other species except live bait taken with this gear shall be returned immediately to the water:
(1) Seines: Maximum size ten (10) ft. long, four (4) ft. deep, one-fourth (1/4) in. mesh, taking permitted [legal] statewide; maximum size thirty (30) ft. long, six (6) ft. deep, one-fourth (1/4) in. mesh, taking permitted [legal] in Ohio and Mississippi Rivers and Kentucky and Barkley Lakes only.
(2) Minnow traps: Maximum size three (3) ft. long, eighteen (18) in. diameter, one (1) in. openings for catching, taking permitted [legal] statewide.
(3) Dip nets: Maximum size three (3) ft. diameter, taking permitted [legal] in Ohio, Tennessee and Mississippi Rivers, Cumberland River below Barkley Dam, Kentucky River below Lock #14, and all lakes over 1,000 acres.
(4) Sport cast nets: Effective March 1, 2001, the maximum size shall be twenty (20) feet [nine (9)-ft-4-in.] diameter, one (1) inch bar [three-eights (3/8)-in.] mesh, taking permitted [legal] statewide except for the following waters:
1. Trout streams and tailwaters [see] listed in the Kentucky Department of Fish and Wildlife's publication "Kentucky Trout Waters" 2000.
2. Lakes with a surface area of less than 500 acres; and
3. In Crocus and Maconbone Creeks, Cumberland County, the mesh size shall be in one (1) inch bar mesh only. Crocus Creek shall be closed to cast nets for an area extending from its mouth to fifty (50) yards upstream. In Tennessee, Ohio and Mississippi Rivers, Cumberland River below Barkley Dam, Kentucky River below Lock #14, and all lakes over 1,000 acres. Maximum size sixteen (16) feet diameter, three-fourths (3/4)-inch mesh legal in Cumberland Lake only.

Section 3. No mussels may be taken for use as bait except Asiatic clams (Corbicula sp.). Sport fishermen shall have in their possession no more than:
(1) 500 minnows;
(2) 500 crayfish;
(3) 100 salamanders (spring lizards);
(4) 100 frogs (other than bullfrogs);
(5) 100 tadpoles;
(6) 100 native lampreys (mud eels);
(7) 500 aquatic invertebrates other than mussels;
(8) 500 shad;
(9) 500 herring;
(10) Any number of Asiatic clams (Corbicula sp.).

(2) This material may be inspected, copied, or obtained at the Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky, between the hours of 8 a.m. and 4:30 p.m. Eastern time.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: May 12, 2000 at 9 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARR's, July 11, 2000)


RELATES TO: KRS [165.925], 150.170, 150.180, 150.280, 150.450, 150.485
STATUTORY AUTHORITY: KRS [165.925], 150.025
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025
authorizes the department to promulgate administrative regulations relating to the taking of fish and wildlife including where the fish and wildlife may be taken. This administrative regulation establishes [gives] the conditions and provisions under which live bait may be taken, transported, and sold. It is necessary to protect the state's aquatic resources; to more clearly designate licenses needed to take and sell live bait, and to adopt a more effective method to take Asiatic Clam (Corbicula fluminea), a recently recognized live bait.

Section 1. Definitions. (1) "Live bait" means minnows; shad; herring; crayfish; salamanders; all frogs, except bullfrogs; all tadpoles; native lampreys; Corbicula and aquatic invertebrate organisms. Live bait refers to the condition of the animal when taken even though it may eventually be sold as a part no longer living.

Section 2. Live bait may be sold by a licensed live fish and bait dealer if purchased from a recognized [legal] source as specified in this administrative regulation. Live bait can be sold by a licensed commercial fisherman only if taken in accordance with this administrative regulation. Corbicula may be taken and sold as bait by a licensed mussel fisherman. The source of live bait is permitted [legal] if:
(1) The live bait is [they were] hatched and reared by a licensed propagator in standing private water (ponds or lakes) or commercial hatchery raceways within the boundaries of Kentucky; [\]
(2) The live bait is [they were] purchased from legal commercial sources located in states other than Kentucky; however, licensed live fish and bait dealers doing business in Kentucky having possession of live bait obtained from sources outside of Kentucky must have a bill of sale showing the date and number of each kind of organism purchased or obtained; [\]
(3) The live bait is purchased from a licensed mussel fisherman, Corbicula may, if taken by means of a legal trap, be resold as bait. No other species of mussel may be sold for bait; [\]
(4) The live bait is purchased from a licensed commercial fisherman, Corbicula taken by means of a tagged commercial bait rake may be resold as bait as specified in Section 3 of this administrative regulation; and [\]
(5) The live bait is purchased from a licensed commercial fisherman. Shad, herring, and other live bait may be sold in whole or part if taken as specified in Section 3 of this administrative regulation.
Section 3. Live bait may not be harvested by any method from any public stream for commercial purposes except as specified in this section.

(1) Licensed commercial fishermen may sell live bait taken in legally set commercial fishing gear.

(2) Licensed commercial fishermen may take and sell shad and herring only if taken by use of a dip net of a diameter of three (3) feet or less made of any type material or cast net not twenty (20) [nine (9)] feet maximum diameter with one (1) [three-eights (3/8)] inch maximum bar mesh in the Tennessee River, Kentucky River downstream from Lock #14, Ohio River, Cumberland River below Barkley Dam, Mississippi River and in all lakes 1,000 acres or larger.

(3) Licensed commercial fishermen may sell live bait if taken from the Mississippi and Ohio rivers only by the use of a one-fourth (1/4) inch mesh seine no more than thirty (30) feet long and six (6) feet deep.

(4) Licensed commercial fishermen may take and sell Corbicula by use of a tagged commercial live bait rake in commercial waters only.

(a) The rake may be no more than twenty (20) inches wide, have tines no longer than five (5) inches, the tines may be set no more than one (1) inch apart, and the basket of any material may be no larger than eight (8) inches by twenty (20) inches by ten (10) inches with a rigid handle no longer than twenty (20) feet. A commercial gear tag must be permanently attached to the handle.

(b) The rake must be operated with the handle in hand. No bridie to permit dragging is allowed.

(c) All mussels taken other than Corbicula must be immediately returned to the water unharmed.

(d) It shall be illegal to have a commercial live bait rake in a boat that also has a mussel boll aboard or attached to the boat regardless of what type licenses the occupants possess.

Section 4. Possession of live bait by a licensed live fish or bait dealer obtained in any other manner than those specified in Section 2 of this administrative regulation is prohibited.

Section 5. All individuals, corporations, or other business entities transporting, selling, or possessing live bait for sale in Kentucky are required to have an appropriate live fish and bait dealers license issued in the name of the individual, corporation, or other business entity that is transacting business in this commonwealth. This license or exact copy thereof must be in the possession of the persons who are transporting, selling, or possessing these organisms in Kentucky. This license is not in lieu of a propagation or transportation permit if they also are applicable to the operation.

Section 6. Those individuals, corporations, or other business entities transporting live bait from one state to another state through Kentucky without conducting any type of business in this commonwealth are not required to have a live fish and bait dealers license, but must have a valid transportation permit.

Section 7. Those individuals, corporations, or other business entities who sell any of the organisms above mentioned for food in establishments licensed by another state agency to sell retail or wholesale food stuffs are not required to have a live fish and bait dealers license.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN F. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: May 12, 2000 at 9 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, July 11, 2000)

301 KAR 1:140. Special commercial fishing permit.

RELATES TO: KRS [150.625(4)] 150.450(2)
STATUTORY AUTHORITY: KRS 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to regulate the size or type of devices and methods used to take wildlife, including rough fish and the places where they may be taken. This administrative regulation is necessary to specify the waters open to, and other restrictions on the use of, gill and trammel nets.

Section 1. Definitions. (1) "Bar mesh size" means the distance between two (2) knots on a line of a net.

(2) "Permit" means a special commercial fishing permit.

(3) "Rough fish" is defined by KRS 150.010(32).

(4) "Whip set" means a gill net or a trammel net rigged so it is free-floating.

Section 2. A person who has in his possession a valid special commercial fishing permit and a commercial fishing license may use a gill net or a trammel net to take rough fish:

(1) From November 1 through:

(a) March 31 in Kentucky Lake; and

(b) The last day of February in Barkley Lake.

(2) In the portions of Kentucky and Barkley lakes open to commercial fishing as specified in 301 KAR 1:150.

Section 3. A person using a gill net or a trammel net in the waters specified in Section 2 of this administrative regulation shall:

(1) Before fishing, apply for a permit by providing on a form provided by the department his:

(a) Name;

(b) Address;

(c) Telephone number; and

(d) Fish markets he intends to use;

(2) Have the permit in his possession while:

(a) Fishing with a gill net or a trammel net;

(b) Transporting a gill net or a trammel net; or

(c) Selling fish taken with a gill net or a trammel net;

(3) Tag a gill net or a trammel net as specified in KRS 150.175(1)(d); or

(4) Not use a gill net or a trammel net with a bar mesh size smaller than three and one-half (3-1/2) inches or larger than four and one-half (4-1/2) inches, except that a whip set may have a minimum bar mesh size of three (3) inches;

(5) Not fish a stationary set net with the top of the net or float line shallower than three (3) feet below the surface;

(6) Tend each net, except: whip sets, at least once every twenty-four (24) hours;

(7) Not leave whip sets unattended;

(8) Affix a decal supplied by the department:

(a) To each side of the boat or motor he uses for fishing under the special commercial fishing permit;

(b) so that the decal is clearly visible while the boat is used for fishing with a gill net or a trammel net;

(9) Not release a rough fish; and

(10) Fish a minimum of 600 yards [linear-feet] of net for at least one-fourth (1/4) of the season.

Section 4. The permit holder may be accompanied by one (1) unlicensed helper, who shall be:

(1) In the same boat with the permit holder while fishing with a gill net or a trammel net; or

(2) Accompanied by the permit holder while transporting or selling fish taken under the permit.

Section 5. The permit holder shall:

(1) Maintain an accurate record of daily fishing activity and fish sales; and

(2) Submit a weekly report to the department:

(a) On a form provided by the department, providing information on:

1. The number of each species of rough fish taken;

2. How the fish were disposed of; and

3. The average total length of nets fished each day, with separate entries for:

a. Gill nets;

b. Trammel nets; and
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(7) "Possession limit" means the maximum number of fish a person may hold in the field after two (2) or more days of fishing.

(8) "Release" means to return a fish:
(a) In the best possible physical condition;
(b) Immediately after removing the hook;
(c) To the water from which it was taken; and
(d) In a place where the fish's immediate escape shall not be prevented.

(9) "Single hook" means a hook with no more than one (1) point.
(10) "Size limit" means the minimum legal length of a fish.
(11) "Slot limit" means that a person:
(a) Shall release fish within a specified minimum and maximum size; and
(b) May keep fish above and below the protected size range.

Section 2. Statewide Size and Creel Limits. (1) Except as specified in Section 4 of this administrative regulation or by 301 KAR 1:180, a person fishing in public or private waters shall observe the following daily possession and size limits.

(a) Black bass: daily limit, six (6); possession limit, twelve (12).
1. Largemouth bass, smallmouth bass or Coho bass: size limit, twelve (12) inches.
2. Kentucky bass: no size limit.
(b) Rock bass: daily limit, fifteen (15); possession limit, thirty (30); no size limit.
(c) Walleye and their hybrids: daily limit, ten (10); possession limit, twenty (20); size limit, fifteen (15) inches.
(d) Sauger: daily limit, ten (10); possession limit, twenty (20); no size limit.
(e) Muskellunge: daily and possession limit, two (2); size limit, thirty (30) inches.
(f) Chain pickerel: daily limit, five (5); possession limit, ten (10); no size limit.
(g) White bass and yellow bass, singly or in combination: daily limit, thirty (30); possession limit, sixty (60); no size limit.
(h) Striped bass and their hybrids: daily and possession limit, five (5); size limit, fifteen (15) inches.
(i) Crappie: daily limit, thirty (30); possession limit, sixty (60); no size limit.
(j) Rainbow trout and brown trout, singly or in combination: daily and possession limit, eight (8), no more than three (3) of which shall be brown trout; no size limit on rainbow trout; [beginning March 1, 2006:] twelve (12) inch size limit on brown trout.
(k) Brook trout: daily and possession limit, two (2); size limit, ten (10) inches.
(2) A person shall release grass carp caught from a lake owned or managed by the department.
(3) A person shall release fish:
(a) Below the minimum size limits established by this administrative regulation;
(b) Within a protected slot limit established by this administrative regulation; or
(c) Of a particular species, if a person has in his possession the daily limit for that species established by this administrative regulation.
(4) A person shall not remove any part of the head or tail of a fish for which there is a size or creel limit until he has completed fishing for the day and has left the water.
(5) A person who wishes to possess sport fish below the size limit or beyond the possession limit shall:
(a) Obtain the fish from a licensed fish propagator or other legal source; and
(b) Retain a receipt or other written proof that the fish were legally acquired.
(6) A person shall release trout unless he:
(a) Has a valid trout permit;
(b) Is exempted from trout permit requirements by KRS 150.170(3); or
(c) Is fishing in a licensed pay lake stocked with trout by the lake operator.

Section 3. Fishing Season. The fishing season shall be open year round.

Section 4. Exceptions to Statewide Administrative Regulations. A
person fishing in the waters listed in this section shall observe the following special requirements. Except as specified in this section, all other provisions of this administrative regulation shall apply to these bodies of water.

(1) Bad Branch, Letcher County. A person shall not fish except with an artificial bait with a single hook.

(2) Bank Camp Creek in Whitley County. From October 1 through March 31, a person shall:
   (a) Not fish except with an artificial bait; and
   (b) Release trout.

(3) Barkley Lake.
   (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
   (b) Crappie: size limit, ten (10) inches.
   (c) Sauger: size limit, fourteen (14) inches.
   (d) Barren River Lake, including:
      (a) Barren River to the Highway 100 bridge;
      (b) Long Creek to the Highway 100 bridge;
      (c) Beaver Creek to the Highway 1297 bridge;
      (d) Skaggs Creek to the Matthes Mill Road bridge; and
      (e) Peter Creek to the Peter Creek Road bridge:
         1. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit; twenty (20); possession limit, forty (40); size limit, no more than five (5) fish in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.
   2. Crappie: size limit, nine (9) inches.
   3. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches. Daily limit may include no more than one (1) and the possession limit no more than two (2) fish less than fifteen (15) inches.
   (5) Beaver Lake.
      (a) [Beginning March 1, 2006] Largemouth bass: size limit, fifteen (15) inches.
      (b) A person shall not possess shad or use shad for bait.
   (6) Bent Combs Lake: a person shall not possess shad or use shad for bait.
   (7) Boltz Lake: a person shall not possess shad or use shad for bait.
   (8) Briggs Lake: a person shall not possess shad or use shad for bait.
   (9) Buckhorn Lake: largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
   (10) Cane Creek in Laurel County. From October 1 through March 31, a person shall:
      (a) Not fish except with an artificial bait; and
      (b) Release trout.
   (11) Carpenter Lake: a person shall not possess shad or use shad for bait.
   (12) Carr Creek Lake.
      (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
      (b) Crappie: size limit, nine (9) inches.
   (13) Carter Caves Lake.
      (a) Fishing shall be during daylight hours only.
      (b) Largemouth bass: daily and possession limit, one (1) fish; size limit, fifteen (15) inches.
      (c) A person shall not possess shad or use shad for bait.
   (14) Cave Run Lake: largemouth bass and smallmouth bass: slot limit - a person may keep fish less than thirteen (13) inches or greater than sixteen (16) inches and shall release fish between thirteen (13) and sixteen (16) inches.
   (15) Corinth Lake: a person shall not possess shad or use shad for bait.
   (16) Cumberland Lake.
      (a) Largemouth [and smallmouth bass]: size limit, fifteen (15) inches.
      (b) Smallmouth bass: size limit, fifteen (15) inches effective until February 28, 2001; on and after March 1, 2001, the size limit shall be eighteen (18) inches.
      (c) Striped bass: size limit, twenty-four (24) inches; and daily and possession limit, two (2) fish.
      (d) [Red] Crappie: size limit, ten (10) inches.
   (17) Cumberland River downstream from Barkley Lake Dam.
      (a) Striped bass: daily and possession limit, three (3).
      (b) Sauger: size limit, fourteen (14) inches.

(18) Cumberland River from Wolfe Creek Dam downstream to the Kentucky-Tennessee state line. Brown trout: size limit, twenty (20) inches; creel limit, one (1).

(19) Cypress AMAX and Robinson Forest Wildlife Management Areas. On impounded waters of the area:
   (a) Largemouth bass: size limit, fifteen (15) inches; daily limit three (3); possession limit, six (6).
   (b) Sunfish: daily limit, fifteen (15); possession limit, thirty (30).
   (c) Channel catfish: daily and possession limit, four (4).
   (d) A person shall not fish:
      1. Except during daylight hours; or
      2. On Starfire Lake between January 1 and May 31.
   (20) Dale Hollow Lake.
      (a) Smallmouth bass: daily limit, two (2); size limit, eighteen (18) inches.
      (b) Walleye and their hybrids: daily limit, five (5);
      3. Size limit, sixteen (16) inches.
      (c) Sauger: daily limit, ten (10); size limit, fourteen (14) inches.
      (d) Muskellunge: daily limit, one (1).
      (e) Rainbow trout and lake trout.
      1. Daily limit, April 1 - October 31: seven (7), no more than two (2) of which may be lake trout. No size limit.
      2. Daily limit, November 1 - March 31: two (2); size limit, twenty-two (22) inches.
      (f) Largemouth bass: size limit, fifteen (15) inches;
      (g) Black bass: aggregate daily limit, five (5), no more than two (2) of which shall be smallmouth bass.
      (h) Crappie: size limit, ten (10) inches.
   (21) Dewey Lake.
      (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
      (b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
   (22) Dix River for two (2) miles downstream from Herrington Lake Dam.
      (a) A person shall not fish except with an artificial bait.
      (b) Brown trout: size limit, fifteen (15) inches.
   (23) Dix River downstream from Herrington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.
   (24) Dog Fork, Wolfe County. [Beginning March 1, 2006] A person shall:
      (a) Not fish except with an artificial bait; and
      (b) Release brook trout.
   (25) East Fork Indian Creek in Menifee County. From October 1 through March 31, a person shall:
      (a) Not fish except with an artificial bait; and
      (b) Release trout.
   (26) Elkhorn Creek downstream from the confluence of the North and South forks. Largemouth bass and smallmouth bass: slot limit - a person shall release fish between twelve (12) and sixteen (16) inches. The daily limit shall not include more than two (2) fish greater than sixteen (16) inches long.
   (27) Elmire Davis Lake.
      (a) Largemouth bass: slot limit - a person shall release fish between twelve (12) and fifteen (15) inches.
      (b) A person shall not possess shad or use shad for bait.
   (28) Fish Trap Lake.
      (a) Largemouth bass or smallmouth bass: size limit, fifteen (15) inches.
      (b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
   (29) Game Farm Lake.
      (a) A person shall not possess shad or use shad for bait.
      (b) Upper Game Farm Lake:
         1. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches; daily limit, three (3); possession limit, six (6); and [u]
         2. Channel catfish: daily limit, four (4); possession limit, eight (8).
      (c) Lower Game Farm Lake:
         1. A person thirteen (13) years or older shall not fish; and [u]
2. Daily limit, three (3) fish regardless of species.

(30) Grayson Lake.

(b) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: size limit, fifteen (15) inches, daily and possession limit, five (5) fish.

(31) Greenbolo Lake. A person shall not possess shad or use shad for bait.

(32) Green River Lake. Crappie: size limit, nine (9) inches.

(33) Guist Creek Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.

(34) Hawk Creek in Laurel County. From October 1 through March 31, a person shall:

(a) Not fish except with an artificial bait; and
(b) Release trout.

(35) Herrington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches long or longer.

(36) Kentucky Lake and the canal connecting Kentucky and Barkley lakes.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) Crappie: size limit, ten (10) inches.

(c) Sauger: size limit, fourteen (14) inches.

(37) Laurel Lake.

(a) Largemouth bass [and smallmouth bass]: size limit, fifteen (15) inches.

(b) Smallest bass: size limit, fifteen (15) inches effective until February 28, 2001. On and after March 1, 2001, the size shall be eighteen (18) inches.

(38) Lebanon City Lake.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) Crappie: size limit, nine (9) inches; daily limit, fifteen (15).

(c) Bluegill and shellecrackers (singly or in aggregate): creel limit, thirty (30).

(d) Channel catfish: creel limit, five (5).

(39) Leary Lake.

(a) A person shall not fish except during daylight hours.

(b) Largemouth bass: daily limit, three (3); possession limit, six (6).

(c) Bluegill: daily limit, fifteen (15); possession limit, thirty (30).

(d) Channel catfish: daily limit, four (4); possession limit, eight (8).

(40) Lincoia Homestead Lake.

(a) A person shall not fish except during daylight hours.

(b) Largemouth bass: daily limit, three (3); size limit, fifteen (15) inches.

(c) Channel catfish: daily limit, four (4); possession limit, eight (8).

(e) A person shall not possess shad or use shad for bait.

(41) Lake Malone. Largemouth bass: slot limit - a person shall release fish between twelve (12) and fifteen (15) inches.

(42) Marion County Lake.

(a) Largemouth bass: size limit, fifteen (15) inches.

(b) A person shall not possess shad or use shad for bait.

(43) Mauzy Lake. Largemouth bass: no size limit.

(44) McNeely Lake. A person shall not possess shad or use shad for bait.

(45) Mill Creek Lake (Powell County). A person shall not possess shad or use shad for bait.

(46) Nolin River Lake.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.

(b) Crappie: size limit, nine (9) inches.

(47) Ohio River.

(a) Walleye, sauger and their hybrids: no size limit; daily limit, ten (10) fish, singly or in combination.

(b) White bass, yellow bass, striped bass and their hybrids: daily limit, thirty (30); no more than four (4) in a daily limit shall be fifteen (15) inches long or longer.

(48) Paintsville Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(a) Parched Corn Creek. Wolfe County. A person shall:

(a) Not fish except with an artificial bait with a single hook;

(b) [Beginning March 3, 1998] Release brook trout.

(50) Peabody Wildlife Management Area (Goose Lake, Island Lake or South Lake):

(a) Largemouth bass: Size limit, fifteen (15) inches; daily limit, three (3); possession limit, six (6).

(b) Bluegill: daily and possession limit, fifteen (15).

(c) Redbreast sunfish: daily and possession limit, fifteen (15).

(d) Channel catfish: daily limit, four (4); possession limit, eight (8).

(e) Walleye: size limit, fifteen (15) inches; daily and possession limit, one (1).

(f) A person shall not:

1. Fish:

(a) Except during daylight hours; and

(b) From October 15 through March 15; or (c) Take frogs.

(51) Poor Fork and its tributaries in Letcher County downstream to the first crossing of Highway 932. A person shall:

(a) Not fish except with an artificial bait with a single hook; and (b) [After March 1, 2006] Release brook trout.

(52) Lake Reba.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) A person shall not possess shad or use shad for bait.

(53) Rock Creek from the Bell Farm Bridge to the Tennessee state line. From October 1 through March 31, a person shall:

(a) Not fish except with an artificial bait; and

(b) Release trout.

(54) Rough River Lake.

(a) Crappie: size limit, nine (9) inches.

(b) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches, except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.

(c) White bass: for size and creel limit purposes anglers shall consider fish of the Morone family with an unseparated, U-shaped rear tooth patch on the tongue to be white bass.

(d) Hybrid striped bass: for size and creel limit purposes anglers shall consider fish of the Morone family with a separated rear tooth patch on the tongue to be hybrid striped bass.

(55) Shanty Hollow Lake.

(a) Largemouth bass: size limit, fifteen (15) inches.

(b) A person shall not possess shad or use shad for bait.

(56) Shillalah Creek, Bell County, outside the Cumberland Gap National Park. A person shall:

(a) Not fish except with an artificial bait with a single hook; and (b) [Beginning March 1, 1998] Release brook trout.

(57) Spurtington Lake. A person shall not possess shad or use shad for bait.

(58) Symson Lake: Largemouth bass: size limit, fifteen (15) inches.

(59) Taylorsville Lake.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) Crappie: daily limit, fifteen (15); possession limit, thirty (30); size limits, nine (9) inches.

(c) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.

(60) Tennessee River downstream from Kentucky Lake Dam.

(a) Striped bass: daily and possession limit, three (3).

(b) Sauger: size limit, fourteen (14) inches.

(61) Wolf Creek Federal Fish Hatchery. Rainbow trout: beginning March 1, 2000, creel limit five (5) in the developed portion of Hatchery Creek from the galvanized culvert/tile upstream to the hatchery discharge.

(62) Yatesville Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. Latta, Secretary
TOM BAKER, Chairman
1. Hunt during the fall gun season with a breech-loading firearm; or
2. Except as authorized by the department, carry a breech-loading firearm with ammunition in the chamber or magazine; and [3]
(b) A person may use a crossbow during the fall archery season.
(c) A person may hunt on the Grayson Lake WMA except during the area's quota deer hunt.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, July 11, 2000)

301 KAR 2:144. Fall wild turkey hunting.

RELATES TO: KRS 150.175(1), 150.305, 150.360, 150.390, 150.990(1)
STATUTORY AUTHORITY: KRS 150.025(1), 150.390(1), 150.620
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)
and 150.390(1) authorize the department to promulgate administrative regulations governing wild turkey hunting. This administrative regulation establishes season dates, shooting hours and other requirements for fall gun and archery turkey seasons.

Section 1. A person may take a wild turkey:
(1) From the third Saturday in September through December 31, except during the modern gun deer season:
(a) Using archery equipment as specified in Section 5 of 301 KAR 2:140;
(b) From one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.
(2) Beginning in 1998, for five (5) consecutive days beginning on the Wednesday closest to December 1:
(a) Using a firearm as specified in Section 5 of 301 KAR 2:140; and
(b) From one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.

Section 2. Except as specified by 301 KAR 2:111, a person shall not take more than:
(1) One (1) wild turkey per day;
(2) Two (2) wild turkeys of either sex during the fall archery season; and
(3) One (1) wild turkey of either sex during the fall gun season.

Section 3. A person shall not hunt a wild turkey during the fall gun season except in Adair, Anderson, Allen, Barren, Boone, Bracken, Bullitt, Butler, Caldwell, Carroll, Christian, Crittenden, Cumberland, Daviess, Edmonson, Fleming, Garrard, Grant, Grayson, Green, Hardin, Harrison, Hart, Henry, Hopkins, Larue, Logan, Marion, Mason, Metcalfe, Muhlenberg, Nelson, Ohio, Owen, Pendleton, Robertson, Shelby, Spencer, Taylor, Todd, Trimble, Warren or Washington counties.

Section 4. [En-a] Wildlife Management Areas [area] Owned, Operated or Under License to the Department, [a-person] (1) A person shall not hunt wild turkey:
(a) During the fall gun turkey season unless:
1. The wildlife management area lies partially or completely within a county listed in Section 3 of this administrative regulation; and
2. A firearm deer season is not open on the area; or
(b) During the fall gun turkey or archery season on:
1. Ballard Wildlife Management Area;
2. Grayson Lake Wildlife Management Area;
3. The main block of Robinson Forest; or
(2) A person may archery turkey hunt during the modern gun deer season if deer hunting with:
(a) A firearm is prohibited; and
(b) Archery equipment is permitted on the area during the modern gun deer season.
(3) A person shall check in and out daily at the Higgison-Henry Wildlife Management Area.
(4) A person may use a crossbow during the fall archery season on the Pioneer Weapons Area.
(5) [En] The Peninsula Unit, including Narrows, Goosy, and Grass Islands of Barren River Wildlife Management Area, [a-person] (a) A person shall not:
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TOM BAKER, Chairman
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: May 12, 2000 at 9 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARR, July 11, 2000)

301 KAR 2:176. Deer control tags.

RELATES TO: KRS 150.010, 150.105 150.170, 150.175,
150.340, 150.390, 150.395, 150.990
STATUTORY AUTHORITY: KRS 150.025, 150.105
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.105
allows the commissioner to authorize the destruction of wildlife that is
causing damage. KRS 150.025 authorizes the department to
promulgate administrative regulations regulating the taking of
wildlife. This administrative regulation establishes the [necessary
to prescribe the conditions and] procedures under which deer may be
taken to alleviate localized agricultural and wildlife habitat damage
until it is appropriate to apply deer herd stabilization or reduction
measures on a county-wide basis through regular hunting seasons.

Section 1. Definitions. (1) "Damage to wildlife habitat" means:
(a) The existence of a browse line caused by deer; or
(b) Damage to more than thirty-five (35) percent of native plant
species preferred by deer.

(2) "Deer control tag" means a tag issued by the department
which authorizes a hunter to take antlerless deer during an open deer
season.

(3) "Deer destruction permit" means written authorization from the
department, pursuant to KRS 150.105, to take deer outside the regu-
lar hunting season framework.

(4) "Deer food plot" means a crop grown to attract and feed deer.

(5) "Department representative" means a department employee
who is qualified and authorized by the commissioner to assess deer
damage.

(6) "Landowner" means the person who has title to a particular
property.

Section 2. Qualifying for Deer Control Tags. (1) A landowner
with fewer than 1,000 contiguous acres shall qualify for deer control tags if:
(a) He has permitted deer hunting on the property during the pre-
vious deer season;
(b) Standard deterrent measures recommended by a department
representative have proven ineffective or are impractical; and
(c) A department representative certifies deer damage to crops,
gardens, property or wildlife habitat.

(2) A landowner with 1,000 contiguous acres or more shall qualify
for deer control tags without evidence of damage if:
(a) He has permitted deer hunting on the property during the pre-
vious deer season;
(b) According to [in] the judgement of the department representa-
tive, regular deer seasons are inadequate to control deer popula-
tions on the property; and
(c) The landowner agrees to:
1. Follow the deer management practices recommended by the
department representative; and
2. Supply the department with weight, age and condition data on
deer taken from his property.

(3) A department representative shall make an on-site inspection
of each property for which a request for deer control tags has been
made, unless the property:
(a) Has been previously inspected by the department and the
landowner affirms that deer damage still exists; or
(b) Is immediately adjacent to property assessed by a department
representative as having severe deer damage.

(4) A landowner whose property is immediately adjacent to prop-
erty assessed by a department representative as having severe deer
damage shall be issued damage control tags upon request of the
landowner, even if there is no evidence of deer damage on their
property.

(5) The department shall not issue deer control tags to a land-
owner whose only damage is to a deer food plot.

Section 3. Applying for Deer Control Tags. (1) A landowner wish-
ing to apply for deer control tags shall contact the department through:
(a) A conservation officer;
(b) The appropriate district wildlife biologist; or
(c) The Division of Wildlife in Frankfort.

(2) If required by Section 2 of this administrative regulation, a
department representative shall visit the property and assess the na-
ture and extent of deer damage.

(3) A request for an assessment shall be made on or before Sep-
tember 30 to be eligible for current year damage control tags.

(4) A request for an assessment made after September 30 shall be
considered for the following year.

Section 4. Number of Tags Issued. (1) The department shall de-
determine the number of deer control tags to be issued for each land-
holding based on the recommendation of the department representa-
tive.

(2) Except as provided in Section 2(2) or (4) of this administrative
regulation, the department shall not issue a deer control tag if:
(a) The county deer season is adequate to achieve the desired
reduction in deer numbers; or
(b) Crop or environmental damage is not present.

Section 5. Transfer of Deer Control Tags. (1) Deer control tags
shall be issued in the landowner's name.

(2) A landowner:
(a) May transfer a deer control tag to another person; [1]
(b) Shall not issue more than five (5) deer control tags to an
individual; [1]
(c) Shall require hunters to sign a deer control tag at the time of
transfer; and [1]
(d) Shall return unissued tags to the department before January 25.

Section 6. Use of Deer Control Tags. (1) A deer control tag:
(a) Shall not be valid except on the landholding for which it was
issued.

(2) A deer control tag [t] shall expire after license year for
which it was issued.

(3) [(a)] A person using a deer control tag:
(a) Shall have in his possession:
1. A deer control tag with his signature; and
2. A valid hunting license and the receipt portion of a current deer
permit, unless exempt from license or permit requirements by KRS
150.170; [2]
(b) May use deer control tags during archery, gun or muzzle-
loader deer seasons to take antlerless deer; [2]
(c) Shall not take more than four (4) deer per license year with
deer control tags; and [2]
(d) Shall abide by the provisions of 301 KAR 2:172, except that he
shall:
1. Not take antlered deer;
2. Tag deer with the deer control tag rather than the carcass tag
portion of the deer permit.

(4) [(b)] Deer taken with a deer control tag shall not count toward
the annual limit as specified in 301 KAR 2:172.

Section 7. Deer Destruction Permits. (1) The department may
issue a deer destruction permit:
(a) To a landowner:
1. Who continues to experience damage after being issued deer
control tags; or
2. Whose property cannot legally be hunted; and [3]
(b) Where deer are posing a public safety or environmental threat.
(2) A deer destruction permit shall specify:
(a) The number and sex of deer to be destroyed;
(b) The method of destruction;
(c) The name of the person who will destroy the deer; and
(d) The dates during which the destruction will take place.
(3) A deer destruction permit shall not be issued without the rec-
ommendation of a representative of the department and the approval
of the commissioner.

- 490 -
(4) A person destroying deer shall:
   (a) Attach a disposal tag provided by the department to each carcass; and
   (b) Not remove the disposal tag until the carcass is processed or disposed of.
(5) A deer destruction permit shall not be used except as specified on the permit.
(6) Nothing in this administrative regulation shall prohibit a landlord or tenant from taking action to control deer that are posing a direct and immediate threat to life or property.

Section 8. Denial or Revocation of Deer Control Tags or Destruction Permits and Appeal Procedures. (1) The department may revoke a deer control tag or destruction permit and deny a future tag or permit to a person who:
   (a) Fails to comply with the requirements of this administrative regulation;
   (b) Is convicted of a deer administrative regulation violation; or
   (c) Otherwise abuses the Deer Control Tag Program.
   (2) An appeal of a revocation or a denial of eligibility shall be submitted:
      (a) In writing;
      (b) To the commissioner; and
      (c) Within sixty (60) days of the date of the revocation or denial.
   (3) An appeal of the commissioner’s decision shall be made in writing to the Fish and Wildlife Resources Commission within sixty (60) days of the commissioner’s decision.
   (4) The Fish and Wildlife Resources Commission shall hear the appeal at its next regularly scheduled meeting.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: May 12, 2000 at 9 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, July 11, 2000)

301 KAR 4:200. Addington Enterprises [Cyprus-AMAX] and Robinson Forest Wildlife Management Areas use requirements and restrictions.

RELATES TO: KRS 150.250, 150.620, 150.960(2)
STATUTORY AUTHORITY: KRS 150.025(2), 150.620
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.620 authorizes the department to provide for the protection, conservation, use and management of the lands, waters, and wildlife associated with the Addington Enterprises [Cyprus-AMAX] Wildlife Management Area and Robinson Forest Wildlife Management Area by detailing requirements and restrictions for permit agents and users of these areas. This amendment is necessary to remove fishing restrictions, which are now included in 301 KAR 1:201; and remove the sections dealing with permit agents, since all license agents can now sell area permits.

Section 1. Definitions. (1) "The area" means the Addington Enterprises [Cyprus-AMAX] Wildlife Management Area and the Robinson Forest Wildlife Management Area, those lands in Breathitt, Knott and Perry counties owned by Addington Enterprises [the Cyprus-AMAX Mineral Company] or the University of Kentucky and managed by the department pursuant to agreements between the department, Addington Enterprises [the Cyprus-AMAX Mineral Company] and the University of Kentucky.
(2) "Group" means any family, organization or gathering using the area for a specific event.
(3) "Private inholding" means lands completely surrounded by the area but not owned by the University of Kentucky or Addington Enterprises [the Cyprus-AMAX Mineral Company].
(4) "Security deposit" means a bond, irrevocable letter of credit from a financial institution, or benefits on a certificate of deposit irrevocably assigned to the department.

Section 2. Individual Permits. A person sixteen (16) years of age or older on the area for any purpose shall have in their possession a nontransferable individual permit except:
   (1) Employees, agents or persons under contract to Addington Enterprises [Cyprus-AMAX Mineral Company], the University of Kentucky or the department performing their official duties; or
   (2) Persons on the area as a necessary part of their jobs or to protect public safety or well-being; or
   (3) Persons on the area for educational purposes and accompanied by officials of the University of Kentucky; or
   (4) Persons conducting research on the area with the written approval of the department, Addington Enterprises [Cyprus-AMAX Mineral Company] or the University of Kentucky; or
   (5) Persons hiking on the Boardinghouse Interpretive Trail from the mouth of Boardinghouse Branch to the Robinson Forest Fire Tower.

Section 3. Private Inholdings and Closed Watersheds. (1) Private inholdings shall be open to hunting or fishing only when the area is open to hunting or fishing.
(2) Persons shall not hunt, fish, train dogs or conduct field trials on lands owned by the University of Kentucky in the Clemens Fork, Coles Fork and Lewis Fork watersheds or in the Buckhorn Creek watershed below Hurricane Branch and above Lewis Fork.

Section 4. Event Permits. (1) A group of people who wish to use the area may apply for an event permit upon the application of one (1) member of the group. If the event permitted is granted, individual members of the group shall not be required to purchase an individual permit.
   (2) The event permit shall apply to all members of the group.
   (3) An event permit shall specify:
      (a) Its period of validity, not to exceed four (4) days;
      (b) The activity in which the group will engage;
      (c) The name of the group;
      (d) The approximate number of persons in the group; and
      (e) The name and address of the person representing the group.
   (4) The department shall not issue event permits for activities in which game or fish are taken.

Section 5. Permit Applications. (1) Persons shall apply for individual or event permits on individual permit or event permit forms provided by the department.
(2) Persons shall not knowingly provide false information on permit applications.
(3) Fees. Applicants shall pay the fees as specified in 301 KAR 3:022:
   (a) Individual permits: ten (10) dollars annually;
   (b) Event permits: twenty-five (25) dollars per event;
   (4) Persons applying by mail shall include a certified check or money order for the correct amount.
(5) Applicants shall provide all information required on the application form. The department shall return incomplete applications to the applicant.
(6) Permits shall be valid from March 1 through the end of February of each year.
(7) The department may:
      (a) Limit the number of event permits issued; [or]
      (b) Assign specific locations for events; [or]
      (c) Deny applications for events which would interfere with management objectives for the area or unduly interfere with other uses or users; or
      (d) Revoke individual or event permits for violations of the terms of the application or this administrative regulation.
(8) The department shall keep all applications, waivers of liability and copies of permits for a minimum of two (2) years after expiration.

Section 6. Prohibited Activities. Except for persons exempted from permit requirements by Section 2(1) through (4) of this administrative regulation, persons on the area shall not:
   (1) Swim for recreational purposes;
   (2) Camp except in designated camping areas;
   (3) Have a fire, except in designated camping areas;
(4) Operate motorized vehicles off existing roads or in areas designated by signs as closed to vehicular travel; (5) Operate vehicles not licensed or legal for use on public streets; (6) Block roads or gates; (7) Discharge firearms, except while hunting; (8) Construct structures or stands except portable deer stands, which hunters shall remove daily; (9) Use boats; (10) Hunt or fish in areas designated by signs as closed to hunting or fishing; (11) Enter areas designated by signs as no trespassing areas; (12) Disobey [te] instructions from officials of the department, the University of Kentucky or Addington Enterprises [the Cyprus AMAX Mineral Company].

Section 8. Material Incorporated by Reference. (1) The following material is [forms are] incorporated by reference:
(2) This material may be inspected, copied, or obtained at [obtained from, or examined or copied at] the offices of the Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky, between the hours of 8 a.m. and 4:30 p.m. eastern time.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATT A, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: May 12, 2000 at 9 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, July 11, 2000)

301 KAR 5:030. Purchasing licenses and obtaining replacement licenses.

RELATES TO: KRS 150.090, 150.170, 150.175, 150.195, 150.235, 150.990
STATUTORY AUTHORITY: KRS 150.170, 150.175, 150.195;
1999 Ky. Acts ch. 274
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195(1) authorizes [gives] the department [authority] to promulgate administrative regulations pertaining to the issuance of licenses. KRS 150.175 authorizes [gives] the department [authority] to require proof of residency and age or disability for those eligible to purchase a senior/disabled combination license. This administrative regulation specifies [is necessary to specify] the information required to purchase a POS license, the information required on the license, how replacement licenses may be obtained, and how to obtain a disability authorization card.

Section 1. Information Required to Purchase a POS License. A person buying a POS license shall furnish the license agent the following information:
(1) The license applicant's date of birth; and
(2) An identification number, which shall be:
(a) An identification number generated by the POS device;
(b) The license applicant's:
1. Driver's license number;
2. State identification card number; or
3. Social Security number; or
(c) If buying a senior/disabled license:
1. If age sixty-five (65) or over, proof of age and Kentucky residency; or
2. If under age sixty-five (65), a disability authorization card issued by the department and another form of personal identification.
(3) To purchase a license using an identification number from the POS device, a person shall provide the full name and complete mailing address of the license applicant to the license agent on an identification card generated by the POS device.

Section 2. Providing Information on Licenses. (1) Before performing an act authorized by the license, the license holder shall:
(a) Sign:
1. The POS license; and
2. Each tag portion of the deer or turkey permit.
(b) Provide the following information, legibly in ink or indelible pencil, in the blanks provided on the POS license:
1. Address, including city, state and zip code;
2. Eye color;
3. Hair color;
4. Sex;
5. Height; and
6. Weight.
(2) A license not completed as specified in this section shall be invalid.
(3) A senior/disabled combination license shall not be valid unless accompanied by:
(a) Proof of age and Kentucky residency, if the license recipient is age sixty-five (65) or over; or
(b) A disability authorization card issued to the license recipient, if the license recipient is under age sixty-five (65).

Section 3. Replacement of Lost or Destroyed Licenses. (1) A person whose license is lost or destroyed may:
(a) Request a replacement license from the department; or
(b) Purchase a replacement license and request a refund from the department.
(2) A person requesting a replacement license or refund shall provide the department with:
(a) His name and complete mailing address;
(b) The identification number used to purchase the original license; and
(c) One (1) of the following:
1. A replacement fee of three (3) dollars. For licenses with an effective beginning date on or after January 1, 2001, the replacement fee shall be four (4) dollars; or
2. The license number of the license he bought to replace the lost or destroyed license.
(3) If the department can verify the purchase of the original license, it shall:
(a) Void the original license; and
(b) Issue a:
1. Replacement license; or
2. Refund check for the amount of the license, less a three (3) dollar replacement fee.
(4) A person shall not use, or present to a conservation officer or other peace officer, a license voided by the issuance of a replacement.
(5) The department shall not refund a license replacement fee.

Section 4. Duplicate License Refunds. A person may obtain refunds for a duplicate POS license:
(1) From the license agent who completed the transaction, if:
(a) The request is made on the same day the license was issued; and
(b) The original license is surrendered to the license agent; or
(2) By furnishing the department with:
(a) The duplicate license;
(b) The name and mailing address of the person requesting the refund;
(c) The license number of the original license; and
(d) An explanation of the reason for the refund request.
(3) Upon receipt of the refund request and duplicate license, and subsequent verification of the original purchase, the department shall issue a refund.

Section 5. Buying Licenses for Another. A person purchasing a POS license for another person shall provide the license agent with the information about the person for whom the license is being purchased as required in Section 1 of this administrative regulation.

Section 6. Obtaining a Disability Authorization Card. (1) To verify that he qualifies for a senior/disabled combination license because of
a disability as specified in KRS 150.175 [1996 RS-HB 654], a person shall provide the department:
(a) A letter of verification from his local federal Social Security office certifying that he has been declared totally and permanently disabled;
(b) A copy of his disability rating from the Veterans Administration showing at least a fifty (50) percent military service-connected disability;
(c) A letter of verification from the United States Railroad Retirement Board certifying that the applicant has been declared totally and permanently disabled; or
(d) A letter, on that state board's letterhead, certifying that the applicant has been declared totally and permanently disabled by another state's workers' compensation board.

(2) A person declared totally and permanently disabled by the Kentucky State Workers' Compensation Board shall:
(a) Obtain a Disability Workers Compensation Exemption form from the department; and
(b) Complete the form and mail it to the address given on the form.

(3) Upon receipt of the verification required by subsection (1) of this section, the department shall issue a card certifying the person is eligible to purchase a senior/disabled combination license.

Section 7. Duration of Disability Exemption. Certification by the Social Security Administration, the United States Railroad Retirement Board, the Veterans Administration or a state worker's compensation board shall remain valid for three (3) years after issue of the disability authorization card.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Disability Authorization Card" (1998); and
(b) "Disability Authorization Card Instructions" (1998).

(2) This material may be inspected, copied, or obtained at the Department of Fish and Wildlife Resources, Division of Fiscal Control, #1 Game Farm Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman
APPROVED BY AGENCY: April 13, 2000
FILED WITH LRC: May 12, 2000 at 9 a.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(As Amended at ARRS, July 11, 2000)

601 KAR 2:020. Drivers' privacy protection.

RELATES TO: KRS 61.874, 61.878(5), [61.879 through 61.884-]
187.310, 18 USC 2721 [Chapter 129]
187.360(1), 18 USC 2721
[56:674]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 187.360(1) requires the cabinet to promulgate administrative regulations to implement KRS 187.360(1). KRS 187.310 requires the cabinet to furnish, upon request, an abstract of the operating record of a person subject to KRS 187.290 to 187.620, 18 USC 2721 [Chapter 253] mandates the information which can and cannot be included in information sold or otherwise distributed about motor vehicle operators or owners. This administrative regulation establishes the circumstances and conditions governing the distribution or sale of personal information.

Section 1. Definition. "Personal information" means information that identifies an individual including the following:
(1) Name;
(2) Address, excluding the zip code;
(3) Social Security number;
(4) Date of birth;
(5) Driver identification number;
(6) Telephone number;
(7) Photograph; and
(8) Medical or disability information.

Section 2. [Notwithstanding any other provisions of this law, under no circumstances shall a person's driver's license photo or computerized image, Social Security number, or medical or disability information from a motor vehicle record, driver's license or permit, motor vehicle registration, or identification document shall not be disseminated except for:]
(1) Use by a government agency including a court or law enforcement agency in carrying out its functions or a private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions;
(2) Use in connection with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or agency or before a self-regulatory body, including but not limited to the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court;
(3) Use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting; or
(4) Use by employer, or its agents or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986, [114 USC 51301 through 31317 (App: 2016 et seq)].

Section 3. (1) In the Driver Licensing Computer Information System, the following shall not be considered personal information:
(a) Driver status; and
(b) Violation of a traffic law.
(2) The information included in the Driver Licensing Computer System shall not be distributed or sold contrary to KRS 187.310.

Section 4. Required Disclosures. (1) Personal information referred to in Section 1 or 2 of this administrative regulation shall be disclosed in accordance with subsection (2) of this section for use in connection with:
(a) Matters of motor vehicle or driver safety and theft;
(b) Motor vehicle emissions;
(c) Motor vehicle product alterations, recalls, or advisories;
(d) Performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; or
(e) Removal of nonowner records from the original owner records of motor vehicle manufacturers.

(2) The disclosure of this information shall be carried out according to the provisions of the:
(a) Federal Automobile Information Disclosure Act, 15 USC 1231 et seq.;
(b) Motor Vehicle Information and Cost Saving Act, 15 USC 1901 et seq.;
(c) National Traffic and Motor Vehicle Safety Act of 1966, 15 USC 1381 et seq.;
(d) Anticar Theft Act of 1992, 15 USC 2021 et seq.;
(e) Clean Air Act, 42 USC 7401 et seq., as amended; and
(f) All statutes and agency administrative regulations enacted or adopted pursuant to the authority of, or to attain compliance with, the federal laws listed in paragraphs (a) through (e) of this subsection. Personal information referred to in Sections 1 and 2 of this administrative regulation, including sensitive personal information as set forth in 601 KAR 2:020, Section 2, shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Federal Automobile Information Disclosure Act, 15 USC 1231 et seq.; the Motor Vehicle Information and Cost Saving Act, 15 USC 1901 et seq.; the National Traffic and Motor Vehicle Safety Act of 1966, 15 USC 1381 et seq.; the Anti-Car Theft Act of 1992, 15
Section 5. [b.] Personal information in the Driver Licensing Computer Information System or the Automated Vehicle Information System, including personal information relating to the owner of a boat, shall not be released except for the following reasons:
(a) For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions;
(b) For use in connection with matters relating to the following:
   (i) Motor vehicle or driver safety;
   (ii) Motor vehicle theft;
   (iii) Motor vehicle emissions;
   (iv) Motor vehicle product alterations, recalls, or advisories;
   (v) Performance monitoring of motor vehicles, motor vehicle parts, or dealers; or
   (vi) [Motor-vehicle-market-research-activities; including survey-research; and]
   (vii) Removal of nonowner records from the original owner records of motor vehicle manufacturers;
(c) The normal course of business by a legitimate business or its agent, employee, or contractor, but only:
   (i) To verify the accuracy of personal information submitted by the individual to the business or its agent, employee, or contractor;
   (ii) If the submitted information is not correct or is no longer correct, to obtain the correct information, in order to prevent fraud by pursuing legal remedies against or recovering on a debt or security interest against the individual;
   (iii) In connection with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court;
(d) If the personal information is not published, redisclosed, or used to contact an individual, for use in:
   (i) Research activities; or
   (ii) Producing statistical reports;
(e) For use by an insurer or insurance support organization, or by a self-insured entity, or its agent, employee, or contractor, in connection with claims investigation activities, antithief activities, rating, or underwriting;
(f) For use in providing notice to the owner of a towed or impounded vehicle;
(g) For use by a licensed investigative agency or licensed security service for a purpose permitted under this section;
(h) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986, [(49 USC 31301 through 31317 [App: 2710 et seq.]);
(i) For use in connection with operation of a private toll transportation facility; or
(j) For use by a requester, if the requester demonstrates he has obtained the written consent of the individual to whom the information pertains.

Section 6. Disclosure with Consent. Personal information referred to in Sections 1 and 2 of this administrative regulation may be disclosed to any requester if the requester provides a written statement of consent that has been notarized, from the person who is the subject of the information being requested. [Each person demonstrates, in such form and manner as the department prescribes, that written consent of the person who is the subject of the information has been obtained.]

Section 7. [4] A person wishing pursuant to Section 5 [b.] of this administrative regulation to obtain a record which includes personal information, shall complete one (1) of the following or its preapproved electronic equivalent:
(a) If the record is in the Driver Licensing Computer Information System:
   (i) Transportation Cabinet form TC 94-1, "Request for Driver Licensing Record(s) which Includes Personal Information";
   (ii) Transportation Cabinet form TC 94-2, "Motor Vehicle Insurer's Request for Driver Licensing Records which Include Personal Information";
   (iii) Transportation Cabinet form TC 94-40, "Multiple Requests for Driver Licensing Records which Include Personal Information";
   (iv) Transportation Cabinet form TC 94-90, "Multiple Requests for Driver Licensing Records which Include Personal Information";
   (v) Transportation Cabinet form TC 10-300, "Agreement Relating to Driver Licensing, Motor Vehicle or Boat Records";
   (vi) Transportation Cabinet form TC 96-16, "Request for Motor Vehicle or Boat Record which Includes Personal Information";
   (vii) Transportation Cabinet form TC 10-300, "Agreement Relating to Driver Licensing, Motor Vehicle or Boat Records" [96-985, "Multiple Requests for Motor Vehicle or Boat Records Which Include Personal Information."

Section 8. [7] Retention of Records. A form completed pursuant to Section 7 [4 or 5] of this administrative regulation shall be retained by the agency or office providing the record containing personal information for a minimum of two (2) years.

Section 9. [8] Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Transportation Cabinet form TC 94-1 "Request for Driver Licensing Record(s) which Includes Personal Information" effective July 1998;
(b) Transportation Cabinet form TC 94-2 "Motor Vehicle Insurer's Request for Driver Licensing Records which Include Personal Information" effective July 1998;
(c) Transportation Cabinet form TC 96-16 "Request for Motor Vehicle or Boat Record which Includes Personal Information" effective July 1998; and
(d) Transportation Cabinet form TC 96-320, "Request to Withhold Personal Information" effective February 1998;
(e) Transportation Cabinet form TC 10-300, "Agreement Relating to Driver Licensing, Motor Vehicle or Boat Records" effective July 1998;
(f) Transportation Cabinet form TC 94-40, "Multiple Requests for Driver Licensing Records which Include Personal Information" effective July 1998; and
(g) Transportation Cabinet form TC 94-90, "Multiple Requests for Driver Licensing Records which Include Personal Information" effective July 1998.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

Motor Vehicle or Boat Records Which Include Personal Information* effective July 1998; and

(2) This material may be inspected [viewed], copied, or obtained from the following offices within the Transportation Cabinet, Monday through Friday, 8 a.m. to 4:30 p.m.:
(a) [TG 96-362, TG 96-365, and] TC 96-16 from the Department of Vehicle Regulation, Division of Motor Vehicle Licensing, 501 High Street, Frankfort, Kentucky 40622; and
(b) TC 94-1 [TG 94-2, and TG 94-40] from the Department of Vehicle Regulation, Division of Driver Licensing, 501 High Street, Frankfort, Kentucky 40622; and
(c) TC 10-300 [and TG 10-864] from the Department of Administrative Services, 501 High Street, Frankfort, Kentucky 40622.

ED LOGSDON, Commissioner
JAMES C. CODELL, III, Secretary
JEFF MOSLEY, Office of General Counsel/Legislative Affairs
APPROVED BY AGENCY: May 15, 2000
FILED WITH LRC: May 15, 2000 at 11 a.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended at ARRS, July 11, 2000)


Section 1. Certification Requirements for Assignment of Special Education Personnel. (1) Mild mental disability (MMD). Teachers holding the following certification shall be assigned to serve pupils with mild mental disabilities within the grade range limitations of the teacher's certificate:
(a) Certification for learning and behavior disorders, grades K-12, P-12 or 7-12; or
(b) Certification for teaching the educable mentally retarded, educable mentally handicapped, emotionally disturbed, or neurologically impaired, grades 1-12, 1-8, or 7-12.
(2) Orthopedic impairment (OI).
(a) Teachers holding the following certification shall be assigned to serve pupils with orthopedic impairments within the grade range limitations of the teacher's certificate:
1. [te] Certification for orthopedically handicapped or physically handicapped, grades 1-12, 1-8, or 7-12; or
(b) Teachers possessing one (1) of the [these] certificates identified in paragraph (a)2 of this subsection shall be assigned based on the learning characteristics and services needs of the child.
(3) Other health impairment (OHI).
(a) Teachers shall be assigned to serve pupils identified as other health impaired within the grade range limitations of the teacher's certificate based upon the learning characteristics and services needs of the child; and
(b) All teachers assigned to pupils identified as other health impaired shall possess a certificate for teaching exceptional children.
(4) Specific learning disability (LD). Teachers holding the following certification shall be assigned to serve pupils with learning disabilities within the grade range limitations of the teacher's certificate:
(a) Certification for learning and behavior disorders, grades K-12, P-12 or 7-12; or
(b) Certification for teaching the educable mentally retarded, educable mentally handicapped, emotionally disturbed, or neurologically impaired, grades 1-12, 1-8, or 7-12.
(5) Developmental delay (DD). Teachers holding the following certification shall be assigned to serve pupils with developmental delay within the grade range limitations of the teacher's certificate:
(a) Certification for learning and behavior disorders, grades K-12, P-12 or 7-12; or
(b) Certification for teaching the educable mentally retarded, educable mentally handicapped, emotionally disturbed, or neurologically impaired, grades 1-12, 1-8, or 7-12.
(6) Emotional-behavioral disability (EBD).
(a) Teachers holding the following certification shall be assigned to serve pupils identified as emotional-behavioral disabled within the grade range limitations of the teacher's certificate:
1. [fe] Certification for learning and behavior disorders, grades K-12, P-12 or 7-12;
2. [fb] Certification for teaching the educable mentally retarded, educable mentally handicapped, emotionally disturbed, or neurologically impaired, grades 1-12, 1-8, or 7-12;
3. Certification for special education.
(b) Teachers possessing one (1) of the [these] certificates identified in paragraph (a)3 of this subsection shall be assigned based on the learning characteristics and services needs of the child.
(7) Functional mental disability (FMD). Teachers holding the following certification shall be assigned to serve pupils with functional mental disabilities within the grade range limitations of the teacher's certificate:
(a) Certification for trainable mentally handicapped, grades K-12;
(b) Certification for teaching the trainable mentally retarded, grades 1-12, 1-8, or 7-12;
(c) Certification for teaching the severely and profoundly handicapped at any grade level;
(d) Certification for teaching the moderately and severely disabled, grades P-12;
(e) Multiple disabilities (MD).
(a) Teachers shall be assigned within the grade range limitations of the teacher's certificate to pupils who have multiple disabilities consistent with the nature of each of the student's different disabilities and based on the learning characteristics and services needs of the child; and
(b) All teachers assigned to pupils with multiple disabilities shall possess a certificate for teaching exceptional children.
(9) Deaf-blindness.
(a) Teachers shall be assigned to serve pupils identified with deaf-blindness within the grade range limitations of the teacher's certificate based on the learning characteristics and services needs of the child; and
(b) All teachers assigned to pupils identified with deaf-blindness shall possess a certificate for teaching exceptional children.
(10) Autism.
(a) Teachers shall be assigned to serve pupils identified with autism within the grade range limitations of the teacher's certificate based on the learning characteristics and services needs of the child; and
(b) All teachers assigned to pupils identified with autism shall possess a certificate for teaching exceptional children.
(11) Traumatic brain injury (TBI).
(a) Teachers shall be assigned to serve pupils identified as having a traumatic brain injury within the grade range limitations of the teacher's certificate based on the learning characteristics and services needs of the child; and
(b) All teachers assigned to pupils identified as having a traumatic brain injury shall possess a certificate for teaching exceptional children.
- 495 -
(12) Hearing impaired (HI). Teachers holding the following certification shall be assigned to serve pupils with hearing impairments within the grade range limitations of the teacher's certificate:
(a) Certification for teaching the hard of hearing, deaf, or hearing impaired, grades K-12, 1-12, 1-8, or 7-12; or
(b) Certification for teaching the hearing impaired, grades P-12.
(13) Visually impaired (VI). Teachers holding the following certification shall be assigned to serve pupils with visual impairments within the grade range limitations of the teacher's certificate:
(a) Certification for teaching the partially seeing, blind, or visually impaired, grades[1] 1-12, 1-8, or 7-12; or
(b) Certification for teaching the visually impaired, grades P-12.
(14) Communication disorders. Teachers holding the following certification shall be assigned to serve pupils who have been identified as needing instruction for speech or language disorders, within the grade range limitations of the teacher's certificate:
(a) Certification for speech and hearing, grades 1-12;
(b) Certification for speech and communication disorders, grades K-12;
(c) Certification for communication disorders, grades P-12.

Section 2. Certification Requirements for Assignment of Interdisciplinary Early Childhood Education Teachers for the Provision of Special Education Services. (1) Teachers holding the following qualifications are assigned to serve birth to primary pupils who have been identified as needing special education services:
(a) Certification for interdisciplinary early childhood education offered under 704 KAR 20:082 and 704 KAR 20:084;
(b) Exemption identified in 704 KAR 20:084; or
(c) Qualifications set forth in 704 KAR 3:410, Section 7(1)(a).
(2) [Nothing in this section shall preclude] A special education teacher identified as in Section 1 of this administrative regulation shall not be precluded from providing services in the teacher's [her] certification area to birth to primary pupils with disabilities if that certification is valid for the primary ages.

Section 3. Probationary and Emergency Provisions. (1) If no regularly certified teacher as delineated in Sections 1 and 2 of this administrative regulation is available to provide the special education services, the local district may employ a teacher certified on a probationary status under 704 KAR 20:010.
(2) If no probationary certified special education teacher is available, the district may employ a teacher certified on an emergency status under the requirements of KRS 161.100 and 704 KAR 20:120.

Section 4. Waiver Requests for Teacher Assignment. (1) Local school districts which need to assign teachers to teach classes or pupils, with the exception of pupils receiving services for communication disorders, not consistent with the above criteria shall request a waiver for the teacher assignment through the Kentucky Department of Education, Office of Special Instructional Services, Division of Exceptional Children and be approved by the Education Professional Standards Board.
(2) [1] The Education Professional Standards Board and Department of Education shall give consideration for this [such] approval based on information provided by the local school district in its request. The request shall: 
(a) [Request shall] Be made prior to September 15 or within fifteen (15) school days of the need for assignment if it occurs after September 15 and
(b) [shall] Include:
1. The teacher's name, school assignment, certificate number, [and] class plan assignment, [and]
(b) The teacher's current certification;
2. A listing of pupils currently served by age and category of exceptionality;
3. The name of the school district the teacher is being assigned to and the certificate (or any other relevant information) of the teacher which wishes to be considered in the decision-making process.
3. Any other relevant information which the district wishes to have considered in the decision-making process.
(2) [2] Following consideration by the Department of Education and approval by the Education Professional Standards Board, the local district shall be promptly notified of the decision on the waiver request.
cational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional-behavioral disability.

(7) "Business day" means Monday through Friday except for federal and state holidays, unless a holiday is specifically included in the designation of business day as in 707 KAR 1:370, Section 1.

(9) "Child with a disability" means a child evaluated in accordance with 707 KAR 1:300, as meeting the criteria listed in this section for autism, deaf-blindness, developmental delay, emotional-behavioral disability, hearing impairment, mental disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment which has an adverse effect on the child's educational performance and who, as a result, needs special education and related services.

(10) "Class size for resource classes" means the number of children with disabilities assigned to a teacher of exceptional children per period, block, or the specified length of the time set by the individual school.

(11) "Collaboration" means, for purposes of determining class size in 707 KAR 1:350, Section 2, a teacher of exceptional children works with children with disabilities in the regular classroom to provide specially-designed instruction and related services.

(12) "Complaint" means a written allegation that a local education agency (LEA) has violated a requirement of the Individuals with Disabilities Education Act (IDEA) or an implementing administrative regulation, and the facts on which the statement is based.

(13) "Compliance" means the obligations of state or federal requirements are met.

(14) "Compliance monitoring report" means a written description of the findings of an investigation, like [some-es] on-site monitoring, citing each requirement found in noncompliance.

(15) "Consent" means:
(a) A parent has been fully informed of all information relevant to the activity for which consent is sought, in his native language, or other mode of communication;
(b) A parent understands and agrees in writing to the carrying out of the activity for which his consent is sought, and the consent describes the activity and lists the records, if any, that will be released and to whom; and
(c) A parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
(d) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

(16) "Controlled substance" means a drug or other substance identified under 21 USC Section 812(c).

(17) "Corrective action plan (CAP)" means a written improvement plan describing activities and timelines developed to correct identified areas of noncompliance, including directives from the Kentucky Department of Education, specifying actions to be taken to fulfill a legal obligation.

(18) "Day" means calendar day unless otherwise indicated as business day or school day.

(19) "Deaf-blindness" means concomitant hearing and visual impairments that have an adverse effect on the child's educational performance, the combination of which causes [see] severe communication and other developmental and educational needs that [they] cannot be accommodated in special education programs solely for children with deafness or children with blindness, unless supplementary assistance is provided to address educational needs resulting from the two (2) disabilities.

(20) "Deficiency" means noncompliance.

(21) "Developmental delay (DD)" means that a child within the ages of three (3) through eight (8) has not acquired skills, or achieved commensurate with recognized performance expectations for his age in one (1) or more of the following developmental areas: cognition, communication, motor development, social-emotional development, or self-help/adaptive behavior. Developmental delay includes a child who demonstrates a measurable, verifiable discrepancy between expected performance for the child's chronological age and current level of performance. The discrepancy shall be documented by:
(a) Scores of two (2) standard deviations or more below the mean in one (1) of the areas listed above as obtained using norm-referenced instruments and procedures; or
(b) Scores of one and one-half (1 1/2) standard deviations below the mean in two (2) or more of the areas listed above using norm-referenced instruments and procedures; or
(c) The professional judgment of the ARC that there is a significant atypical quality or pattern of development. Professional judgment shall be used only where normed scores are inconclusive and the ARC documents in a written report the reasons for concluding that a child has a developmental delay.

(22) "Education records" means records as defined in the Family Educational Rights and Privacy Act of 1974, 20 USC Section 1232(g).

(23) "Emotional-behavioral disability (EBD)" means that a child, when provided with interventions to meet instructional and social-emotional needs, continues to exhibit one (1) or more of the following, when compared to the child's peer and cultural reference groups, across settings, over a long period of time and to a marked degree:
(a) Severe deficits in social competence or appropriate behavior which cause an inability to build or maintain satisfactory interpersonal relationships with adults or peers;
(b) Severe deficits in academic performance which are not commensurate with the student's ability level and are not solely a result of intellectual, sensory, or other health factors but are related to the child's social-emotional problems;
(c) A general pervasive mood of unhappiness or depression; or
(d) A tendency to develop physical symptoms or fears associated with personal or school problems.

This term does not apply to children who display isolated (not necessarily one(1)) inappropriate behaviors that are the result of wilful, intentional, or wanton acts unless it is determined through the evaluations process that the child does have an emotional-behavioral disability.

(24) "Enforcement" means the Kentucky Department of Education takes steps to ensure federal and state special education requirements are implemented.

(25) "Extended school year services" means specially designed instruction and related services that are provided to a child with a disability beyond the normal school year in accordance with the child's IEP at no cost to the parents.

(26) "Free appropriate public education (FAPE)" means special education and related services that:
(a) Are provided at public expense, under public supervision and direction, and without charge;
(b) Meet the standards of the Kentucky Department of Education included in 707 KAR Chapter 1 and the Program of Studies, 704 KAR 3:303, as appropriate;
(c) Include preschool, elementary school, or secondary school education in the state, and
(d) Are provided in conformity with an individual education program (IEP) that meets the requirements of 707 KAR 1:320.

(27) "Hearing impairment (HI)" means that a child has a hearing loss that has an adverse effect on the child's educational performance, whether permanent or fluctuating, ranging from mild to profound (a loss of twenty (20) or greater exists through speech frequencies of 500, 1000, and 2000 Hertz (Hz) in the better ear), and of [some] a degree that the child is impaired in the processing of linguistic information through hearing, with or without amplification.

(28) "Home school" means for purposes of 707 KAR Chapter 1 only, a private school primarily conducted in one's residence.

(29) "IDEA" means the Individuals with Disabilities Education Act, 20 USC Section 1400 et seq., as amended.

(30) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child in question.

(31) "Individual education program (IEP)" means a written statement for a child with a disability that is developed, reviewed and revised in accordance with 707 KAR 1:320.

(32) "Local educational agency (LEA)" means a public local board
of education or other legally constituted public authority that has either administrative control or direction of public elementary or secondary schools in a school district or other political subdivision of the Commonwealth. LEA also means any other public institution or agency, including the Kentucky School for the Blind (KSB) and the Kentucky School for the Deaf (KSD), that is charged by state statute with the responsibility of providing educational services to children with disabilities. (33) "Mental disability" means that a child has one (1) of the following:
(a) A mild mental disability (MMD) in which:
1. Cognitive functioning is at least two (2) but no more than three (3) standard deviations below the mean;
2. Adaptive behavior deficit is at least two (2) standard deviations below the mean;
3. A severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge; and
4. Is typically manifested during the developmental period; or
(b) A functional mental disability (FMD) in which:
1. Cognitive functioning is at least three (3) or more standard deviations below the mean;
2. Adaptive behavior deficits are at least three (3) or more standard deviations below the mean;
3. A severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge; and
4. Is typically manifested during the developmental period. (34) "Monitoring" means gathering and reviewing information to determine if a project or program meets state and federal special education requirements including the implementation of corrective action plans. (35) "Multiple disabilities (MD)" means concomitant impairments that do not adversely affect the child's educational performance (e.g., [such as] mental disability-blindness, mental disability-orthopedic impairment, etc.), the combination of which causes [such as] severe educational needs that they cannot be accommodated in special education programs solely for one (1) of the impairments. Multiple disabilities does not mean deaf-blindness. (36) "Native language" means, if used in reference to an individual of limited English proficiency, the following:
(a) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child; (b) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment; or
(c) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication that is normally used by the individual (e.g., [such as] sign language, Braille, or oral communication). (37) "Orthopedic impairment (OI)" means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairment caused by a congenital anomaly (e.g., clubfoot, absence of some member, etc.), an impairment caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and an impairment from other causes (e.g., cerebral palsy, amputations, and fractures or burns that causes contractures). (38) "Other health impairment (OHI)" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:
(a) is due to a chronic or acute health problem, e.g., [such as] acquired immune deficiency syndrome, asthma, attention deficit disorder or hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, or tuberculosis; and
(b) Adversely affects a child's educational performance. (39) "Parent" means:
(a) A natural or adoptive parent of a child; (b) A guardian but not the state if the child is a ward of the state; (c) A person acting in the place of a parent (e.g., [such as] a grandparent or stepparent with whom the child lives) or a person who is legally responsible for the child's welfare; (d) A surrogate parent who has been appointed in accordance with 707 KAR 1:340, Section 7; or
(e) A foster parent if the natural parents' authority to make educational decisions on the child's behalf has been extinguished and the foster parent has an ongoing, long-term parental relationship with the child, is willing to make the educational decisions required of parents under 707 KAR Chapter 1, and has no interest that would conflict with the interests of the child. (40) "Participating agency" means a state or local agency other than the LEA that is financially and legally responsible for providing transition services to a child with a disability. (41) "Personally identifiable information" means information that includes the name of the child, the child's parents, or other family members; the address of the child; a personal identifier, including [such as] the child's Social Security number or student number, or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. (42) "Private school children with disabilities" means children with disabilities enrolled by their parents in private schools and not children with disabilities enrolled in private schools upon referral by a LEA. (43) "Public expense" means that the LEA either pays for the full cost of the services to meet the requirements of 707 KAR Chapter 1 or ensures that the services are otherwise provided at no cost to the parent. Nothing in these administrative regulations shall relieve [ relievers] an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability. (44) "Qualified personnel" means personnel who meet the statutory or regulatory qualifications for each respective profession currently applicable in this state. (45) "Reasonable efforts to obtain voluntary compliance" means active and ongoing efforts by the Kentucky Department of Education through technical assistance and negotiation to arrive at an acceptable corrective action plan and follow through on an agreed-upon corrective action plan. (46) "Related services" means transportation and such developmental, corrective, or supportive services as are required to assist a child with a disability to benefit from special education. It includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, early identification and assessment of disabilities in children, counseling services including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also means school health services, social work services in school, and parent counseling and training. (47) "Sanctions" means actions (e.g., technical assistance, consultation, or training, among others) taken by the Kentucky Department of Education in response to a LEA's failure to comply with the required standards in state and federal laws and administrative regulations. (48) "School day" means any day, including a partial day, that children are in attendance at school for instructional purposes. School day means the same thing for all children in school, including children with or without disabilities. (49) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability including instruction in the classroom, in the home, in hospitals and institutions, and in other settings. Special education means speech-language pathology services, (if the service is considered special education rather than a related service), travel training, and vocational education. (50) "Special education mentor" means individuals with expertise in the content, methodology, or delivery of instruction to address the unique needs of the child with a disability and to ensure access of the child to the general curriculum included in the Program of Studies, 704 KAR 3:303. (51) "Specially-designed instruction" means adapting as appropriate the content, methodology, or delivery of instruction to address the unique needs of the child with a disability and to ensure access of the child to the general curriculum included in the Program of Studies, 704 KAR 3:303. (52) "Specific learning disability (LD)" means a disorder in one (1) or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in diminished ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions like [such as] perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and
developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(52) 'Specially designed instruction' means adapting or appropriate the content, methodology, or delivery of instruction to address the unique needs of the child with a disability and to ensure access to the child to the general curriculum included in the Program of Studies; 764 KAR 2:120.1.

(53) "Speech or language impairment" means a communication disorder, including such as stuttering, impaired articulation, a language impairment, a voice impairment, delayed acquisition of language, or an absence of language, that adversely affects a child's educational performance.

(54) "Supplementary aids and services" means aids, services, and other supports that are provided in regular education classes or other educational settings to enable a child with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with 707 KAR 1:350.

(55) "Transition services" means a coordinated set of activities for a child with a disability that:
(a) is designed within an outcome-oriented process (i.e., a process that outlines how a student will achieve goals consistent with the general curriculum, as appropriate), that promotes movement from school to post-school activities, including postsecondary education, vocational training, integration in employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
(b) is based on the individual student's needs, taking into account the child's preferences and interests; and
(c) includes:
1. Instruction;
2. Related services; and
3. Community experiences;
4. The development of employment and other post-school adult living objectives; and
5. If appropriate, acquisition of daily living skills and functional vocational evaluation.

(a) Traumatic brain injury (TBI) means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury does not mean brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. Traumatic brain injury means open or closed head injuries resulting in impairments in one (1) or more areas, including:
(a) Cognition;
(b) Language;
(c) Memory;
(d) Attention;
(e) Reasoning;
(f) Abstract thinking;
(g) Judgment;
(h) Problem-solving;
(i) Sensory, perceptual, and motor abilities;
(j) Psychosocial behavior;
(k) Physical functions;
(l) Information processing; and
(m) Speech.

(57) "Travel training" means instruction to children with significant cognitive disabilities and any other children with disabilities, as appropriate, to enable them to develop an awareness of the environment in which they live and to learn the skills necessary to move effectively and safely from place to place within that environment (e.g., school, home, work and community).

(58) "Visual impairment (VI)" means a child has a vision loss, even with correction, as follows:
(a) Visual acuity even with prescribed lenses that is 20/70 or worse in the better eye; or
(b) Visual acuity that is better than 20/70 and the child has one (1) of the following conditions:
1. A medically diagnosed progressive loss of vision;
2. A visual field of twenty (20) degrees or worse;
3. A medically diagnosed condition of cortical blindness; or
4. A functional vision loss;
(c) Requires specialized materials, instruction in orientation and mobility, Braille, visual efficiency, or tactile exploration; and
(d) Has an adverse effect on the child's educational performance.

(59) "Ward of the state" means a child who has been committed to the Cabinet for Families and Children or the Department of Juvenile Justice through a legal process, whether the commitment is voluntary or involuntary and the natural parental rights have been terminated.

(60) "Weapon" means dangerous weapon as defined in 18 USC Section 924(g)(2).

(61) "Withholding" means no further payment of specified funds are made to an approved recipient.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
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EDUCATION, ARTS, AND HUMANITIES CABINET
Department of Education
Division of Exceptional Children Services
(As Amended at ARRS, July 11, 2000)

707 KAR 1:290. Free appropriate public education.


NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper appointment and disbursement of these [seem] funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the appointment and disbursement of federal funds for exceptional children's programs in accordance with applicable laws. This administrative regulation establishes requirements for providing a free, appropriate, public education for children identified as eligible for special education services.

Section 1. Free Appropriate Public Education. (1) AN LEA shall make a free appropriate public education (FAPE) available to all children with disabilities aged three (3) to twenty-one (21) residing within its district's boundaries, including children with disabilities who have been suspended or expelled for more than ten (10) school days in a school year. FAPE shall be provided to each child with a disability based on the child's unique needs and not on the child's disability.

(2) AN LEA shall be responsible for ensuring the rights and protections under 707 KAR Chapter 1 are given to children with disabilities referred to or placed in residential facilities by that LEA.

(3) State agencies charged with the responsibility of providing educational services to children with disabilities within their care shall provide those services in accordance with 707 KAR Chapter 1.

(4) If payment for services under 707 KAR Chapter 1 is to be provided by an agency other than the LEA, the LEA shall ensure the services are provided without delay even if there is a delay in the payment for those services.

Section 2. Residential Placement. If it is determined necessary by an ARC to place a child with a disability for educational purposes in a private residential educational program, the program, including nonmedical care and room and board, shall be provided by the LEA which convened the ARC. AN LEA may fulfill its responsibility under this section by providing the services directly or by contracting for those
services.

Section 3. Proper Functioning of Hearing Aids. AN LEA shall ensure that a hearing aid worn in school by a child with a hearing impairment is functioning properly.

Section 4. Program Options. AN LEA shall ensure that all children with disabilities have available to them the variety of educational programs, services and curriculum as described in the Kentucky Program of Studies, 704 KAR 3:030, that is available to children without disabilities. These educational services may include art, music, industrial arts, consumer and family science education, and career and technical education.

Section 5. Nonacademic Services. AN LEA shall take steps to provide all children with disabilities the nonacademic and extracurricular services and activities which give children with disabilities an equal opportunity for participation in these services and activities. These services and activities may include:

1. Counseling services;
2. Athletic;
3. Transportation;
4. Health services;
5. Recreational activities;
6. Special interest groups or clubs sponsored by the LEA;
7. Referrals to agencies that provide assistance to individuals with disabilities; and
8. Employment of students, including both employment by the LEA and assistance in making outside employment available.

Section 6. Physical Education. AN LEA shall make available to every child with a disability:

1. Physical education services, specially designed if necessary; or
2. The opportunity to participate in the regular physical education program available to children without disabilities unless:
   a. The child is enrolled full time in a separate facility in which case the agency responsible for the education of the child in that facility shall ensure the child receives appropriate physical education; or
   b. The child needs specially designed physical education as prescribed in the child’s IEP.

Section 7. Assistive Technology. (1) AN LEA shall ensure that assistive technology devices or assistive technology services, or both, as defined in 707 KAR 1:280(4) or (5) are made available to a child with a disability if required as part of the child’s special education, related services, or supplemental aids and services.

(2) On a case-by-case basis, the use of school-purchased assistive technology devices in a child’s home or in other settings is required if the ARC determines that the child needs access to those devices in order to receive FAPE.

Section 8. Extended School Year Services. AN LEA shall ensure that extended school year services are available to each child with a disability, as necessary, to provide FAPE. The determination of the need for extended year services shall be made on an individual basis. In making this determination, the LEA shall not:

1. Limit the provision of extended year services to a particular category(s) of disability; or
2. Unilaterally limit the type, amount, or duration of those services.

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KAR 3:303.
(5) A standardized test given to a child shall:
(a) Have been validated for the specific purpose for which they are used;
(b) Be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests; and
(c) Be conducted under standard conditions unless a description of the extent to which it varied from standard conditions is documented in the evaluation report.
(6) Tests and other evaluation materials shall include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
(7) Tests shall be selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
(8) A single procedure shall not be used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
(9) The child shall be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
(10) The evaluation shall be sufficiently comprehensive to identify all the child's special education and related services needs, whether commonly linked to the disability category in which the child has been classified.
(11) Assessments tools used shall be technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
(12) Assessment tools and strategies shall be used that provide relevant information that directly assist and are used in the determination of the educational needs of the child. As part of an initial evaluation, if appropriate, or as part of any reevaluation, the ARC and other qualified professionals, if necessary, shall review existing evaluation data on the child including:
(a) Evaluations and information provided by the parents;
(b) Current classroom-based assessments and observations; and
(c) Observations by teachers and related services providers.
(13) On the basis of the review, and input from the parents, the ARC shall identify what additional data, if any, are needed to determine:
(a) Whether the child has a particular category of disability, or in the case of a reevaluation of the child, whether the child continues to have a disability;
(b) The present levels of performance and educational needs of the child;
(c) Whether the child needs special education and related services, or in the case of a reevaluation, whether the child continues to need specially-designed instruction and related services; and
(d) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general curriculum.
(14) The LEA shall administer tests and other evaluation materials as needed to produce the data identified by the ARC. If, for purposes of a reevaluation, the ARC determines that no additional data are needed to determine whether the child continues to be a child with a disability, the LEA shall notify the child's parents:
(a) Of that determination and reasons for it; and
(b) Of the right of the parents to request an assessment to determine whether, for purposes of services, the child continues to be a child with a disability.
(15) The LEA shall not be required to conduct a reevaluation, if after review of the existing data, the ARC determines no reevaluation is necessary to determine whether the child continues to be a child with a disability, unless the parent requests the reevaluation.
(16) An LEA shall ensure a reevaluation, which may consist of the review described in subsection (12) of this section, is conducted at least every three (3) years to determine:
(a) The present levels of performance and educational needs of the child;
(b) Whether the child continues to need special education and related services; and
(c) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general curriculum.
(17) An LEA shall evaluate a child with a disability in accordance with this administrative regulation before determining that the child is no longer a child with a disability.
KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNT-JOY, Chairperson
KEVIN M. NOLAND, Attorney
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EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
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Division of Exceptional Children Services
(As Amended at ARRS, July 11, 2000)

707 KAR 1:310. Determination of eligibility.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the statutory framework for special education programs. Federal law mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for the determination of eligibility for special education of children who have disabilities.

Section 1. Determination of Eligibility. (1) Upon completion of the tests and other evaluation materials, the ARC shall determine whether the child is a child with a disability who meets one (1) or more of the eligibility categories as defined in 707 KAR 1:320 to the extent that specially designed instruction is required in order for the child to benefit from education. An LEA shall provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.
(2) A child shall not be determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.
(3) An evaluation shall not be required before the termination of a child's eligibility due to graduation with a regular high school diploma or exceeding the age eligibility for FAPE.
(4) In making eligibility determinations, an LEA shall draw upon information from a variety of sources, which may include:
(a) Aptitude and achievement tests;
(b) Parental input;
(c) Teacher recommendations;
(d) Physical condition;
(e) Social or cultural background; and
(f) Adaptive behavior.
(5) An LEA shall ensure that information obtained from all of these sources is documented and carefully considered.
(6) In making a determination under the category of mental dis-
ability, the ARC may apply a standard error of measure, if appropriate.

(7) If a determination is made that a child has a disability and needs special education and related services, an IEP shall be developed for the child.

Section 2. Additional Procedures for Evaluating Children with Specific Learning Disabilities. (1) The determination of whether a child suspected of having a specific learning disability is a child with a disability and whether the specific learning disability adversely affects educational performance shall be made by the child's ARC and at least one person qualified to conduct individual diagnostic examinations of children, which may include a school psychologist, speech-language pathologist, or remedial reading teacher.

(2) The ARC may determine a child has a specific learning disability if:
(a) The child does not achieve commensurate with his age and ability levels in one (1) or more of the areas listed in this subsection, if provided with learning experiences appropriate for the child's age and ability levels; and
(b) The child has a severe discrepancy as identified by a validated regression method between achievement and intellectual ability in one (1) of the following areas:
1. Oral expression;
2. Listening comprehension;
3. Written expression;
4. Basic reading skills;
5. Reading comprehension;
6. Mathematics calculation; or

(3) The ARC shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievements is primarily the result of:
(a) A visual, hearing, or motor impairment;
(b) Mental disability;
(c) Emotional-behavioral disability; or
(d) Environmental, cultural, or economic disadvantage.

(4) At least one (1) team member other than the child's regular education teacher shall observe the child's academic performance in the regular classroom setting. If the child's school is less than school age or out of school, the observation shall take place in an environment appropriate for the child.

(5) An ARC shall develop a learning disability (LD) written report. This report shall contain a statement of:
(a) Whether the child has a specific learning disability;
(b) The basis for making that determination;
(c) The relevant behavior noted during the observation;
(d) The relationship of that behavior to the child's academic functioning;
(e) The educationally relevant medical findings, if any;
(f) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
(g) The determination of the ARC concerning the effects of environmental, cultural, or economic disadvantage.

(6) Each ARC member shall certify in writing whether the report reflects his conclusion. If it does not reflect his conclusion, the team member shall submit a separate statement presenting his conclusions.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
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707 KAR 1:320. Individual education program.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these [such] funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for the development, implementation, and revision of Individual education programs for each child with a disability.

Section 1. Individual Education Programs. (1) An LEA shall ensure the an IEP is developed and implemented for each child with a disability served by that LEA, and for each child with a disability placed in a referred to a private school or facility by the IEP.

(2) Kentucky School for the Deaf and Kentucky School for the Blind, in conjunction with the child's resident LEA, shall ensure that an IEP is developed and implemented for each child with a disability placed in its school by an ARC.

(3) An LEA shall have an IEP in effect for each child with a disability within its jurisdiction at the beginning of each school year.

(4) An LEA shall ensure the IEP:
(a) Is in effect before specially designed instruction and related services are provided to a child with a disability; and
(b) Is implemented as soon as possible following an ARC meeting.

(5) An LEA (or state agency responsible for developing the child's IEP) shall ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for the special education and related services to the child is being determined.

(6) An LEA shall ensure that:
(a) The child’s IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service providers who are responsible for its implementation;
(b) Prior to the implementation of the IEP, each implementer is informed of his specific responsibilities related to implementing the child's IEP; and
(c) The specific accommodations, modifications, and supports are provided for the child in accordance with the IEP.

(7) An IEP shall be in place for all eligible children aged three (3) through five (5).

Section 2. ARC Meetings. (1) An LEA shall ensure that each child has an ARC which includes the membership in Section 3 of this administrative regulation and is initiated and conducted for the purpose of developing, reviewing, and revising the IEP.

(2) An LEA shall ensure that within sixty (60) school days following the receipt of the parental consent for an initial evaluation of a child:
(a) The child will be evaluated; and
(b) If the child is eligible, specially designed instruction and related services will be provided in accordance with the IEP.

(3) Within this sixty (60) day period, an LEA shall ensure that the ARC meeting to develop an IEP for the child is conducted within thirty (30) days of the determination that the child is eligible.

(4) An LEA shall ensure that the ARC:
(a) Reviews each child's IEP periodically, but no less than annually, to determine whether the annual goals for the child are being achieved; and
(b) Revises the IEP as appropriate to address:
1. Any lack of expected progress toward the annual goals;
2. Any lack of expected progress in the general curriculum, if appropriate;
3. The results of any reevaluation;
4. Information about the child provided by or to the parents;
5. The child's anticipated needs; and
6. Other matters.

Section 3. ARC Membership. (1) An LEA shall ensure that the ARC for each child with a disability includes:
(a) The parents of the child;
(b) A regular education teacher of the child (if the child is or may be participating in the regular education environment) to provide information about the general curriculum and the availability of the resources of the LEA;
(c) A special education teacher of the child or a special education teacher who is knowledgeable about the child's suspected disability or, if appropriate, at least one (1) special education provider of the child;
(d) A representative of the LEA who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general curriculum and the availability of the resources of the LEA;
(e) An individual who can interpret the instructional implications of evaluation results who may be a member of the team described in paragraphs (b) through (d) of this subsection;
(f) An individual who has knowledge or special expertise regarding the child at the discretion of the parent or the LEA;
(g) Related services personnel, as appropriate; and
(h) The child, if appropriate.
(2) The purpose of the ARC is to discuss transition services for a child with a disability as described in Section 4(3) and (4) of this administrative regulation, the child shall be invited to the ARC. A public agency that is likely to be responsible for providing or paying for transition services shall also be invited. If the representative of the other public agency does not attend, the LEA shall take other steps to obtain participation of the other agency in the planning of any transition services.

Section 4. Parent Participation. (1) An LEA shall ensure that one (1) or both of the parents of a child with a disability are present at each ARC meeting or are afforded the opportunity to participate. Parents shall be notified of the meeting early enough to ensure that they will have an opportunity to attend, and the meeting shall be scheduled at a mutually-agreed-on time and place.
(2) An LEA shall send an ARC meeting invitation to the parents which includes:
(a) The purpose;
(b) Time;
(c) Location of the meeting;
(d) Who will be in attendance; and
(e) Information that the parents may invite people with knowledge or special expertise of the child to the meeting.
(3) If the child is at least fourteen (14) years of age, the invitation shall indicate that a purpose of the meeting will be the development of a statement for the need for transition services of the child and indicate that the child is invited. This subsection shall apply to a child younger than fourteen (14) years of age if determined to be appropriate by the ARC.
(4) If the child is at least sixteen (16) years of age, the invitation shall indicate that a purpose of the meeting is the consideration of needed transition services for the child and shall include the identity of any other agency that is invited to send a representative. This subsection shall apply to a child younger than sixteen (16) years of age if determined to be appropriate by the ARC.
(5) An LEA shall ensure parent participation in the ARC meeting if the parent is unable to attend by using other methods, which may include individual or conference telephone calls or video conferencing.
(6) An ARC meeting may be conducted without a parent in attendance if the LEA is unable to convince the parent that he should attend. The LEA shall have a record of its attempts to arrange a mutually-agreed-on time and place, which may include:
(a) Detailed records of telephone calls made or attempted and the results of those calls;
(b) Copies of correspondence sent to the parents and any responses received; and
(c) Detailed records of visits to the parent's home or place of employment and the results of those visits.
(7) When using an interpreter or other action, as appropriate, an LEA shall take whatever action is necessary to ensure that the parents understand the proceedings at the ARC meeting, including arranging for an interpreter for the parents with deafness or whose native language is other than English.
(8) An LEA shall give the parent a copy of the child's IEP at no cost to the parent.

Section 5. Contents of IEP. (1) An ARC shall consider in the development of an IEP:
(a) The strengths of the child and the concerns of the parents for enhancing the education of their child;
(b) The results of the initial or most recent evaluation of the child; and
(c) As appropriate, the results of the child's performance in any general state or districtwide assessments programs.
(2) An ARC shall:
(a) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
(b) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP.
(c) In the case of the child who is blind or visually impaired, provide for instruction in Braille and the use of Braille, unless the ARC determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
(d) Consider the communication needs of the child;
(e) In the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
(f) Consider whether the child requires assistive technology.
(3) All the factors listed in this section (subsection (5)(c) of this section) shall be considered, as appropriate, in the review, and if necessary, revision of a child's IEP.
(4) Once the ARC has considered all the factors listed in this section (subsection (5)(c) of this section) the ARC shall include a statement on the IEP indicating the needs for a particular device or service (including an intervention, accommodation, or other program modification), if any are needed, in order for the child to receive a free appropriate public education (FAPE).
(5) A regular education teacher (teacher) of the child, as a member of the ARC, shall, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of appropriate:
(a) Positive behavioral interventions and strategies for the child;
(b) Supplementary aids and services; and
(c) Program modifications or supports for school personnel that will be provided for the child.
(6) An ARC shall not be required to include information under one (1) component of a child's IEP that is already contained under another component of the child's IEP.
(7) The IEP for each child shall include:
(a) A statement of the child's present levels of educational performance, including how the child's disability affects the child's involvement and progress in the general curriculum as provided in the Kentucky Program of Studies, 704 KAR 3:303, or for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and
(b) A statement of measurable annual goals, including benchmarks or short-term objectives related to:
1. Meeting the child's needs that result from the disability to enable the child to be involved in and progress in the general curriculum as provided in the Kentucky Program of Studies, 704 KAR 3:303, or for preschool children, as appropriate, to participate in appropriate activities; and
2. Meeting the child's other educational needs that result from the disability.
(8) An IEP shall include a statement of the specially designed
instruct and related services and supplementary aids and services to be provided to the child, or on behalf of the child. There shall also be a statement of the program modifications and supports for school personnel that will be provided for the child to:
(a) Advance appropriately toward attaining the annual goals;
(b) Be involved and progress in the general curriculum;
(c) Participate in extracurricular and other nonacademic activities; and
(d) Be educated and participate with other children with or without disabilities.
(9) An IEP shall contain an explanation of the extent, if any, to which the child will not participate with nondisabled children in regular classes.
(10) An IEP shall contain a statement of any individual modifications to be provided the child in order to participate in the state or districtwide assessment. These modifications shall be based on the requirements contained in 703 KAR 5:070, Inclusion of special populations in the state-required assessment and the accountability programs.
(11) If the ARC determines that the child meets the criteria for participation in the alternate portfolio, as provided in 703 KAR 5:070, it shall provide a statement of its decision and the reasons for the decision.
(12) An IEP shall include the projected date of the beginning of the services and modifications listed on the IEP and the anticipated frequency, location (i.e., regular or special education), and duration of the services and modifications.
(13) An IEP shall include a statement of:
(a) How the child's progress toward the annual goals will be measured; and
(b) How the parents will be regularly informed, at least as often as the school or LEA informs parents of the progress of all children.
(14) A parent shall be informed of:
(a) Their child's progress toward the annual goals; and
(b) The extent to which progress is sufficient to enable the child to achieve the goals by the end of the year.

Section 6. Transition Services. (1) Beginning at age fourteen (14), or younger if determined appropriate by the ARC, the IEP for a child with a disability shall include a statement of the transition service needs of the child under the applicable components of the child's IEP that focus on the child's course of study. This statement shall be updated annually.
(2) For a child beginning at age sixteen (16), or younger if determined appropriate by the ARC, the IEP for a child with a disability shall include a statement of needed transition services for the child, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.
(3) Transition services for children with disabilities may be special education, if provided as specially designed instruction or related services, and if required to assist a child with a disability to benefit from special education.
(4) At least one (1) year prior to the child reaching the age of majority, the IEP shall include a statement that the child has been informed of his rights under 707 KAR Chapter 1 and that the rights will transfer to the child upon reaching the age of majority.
(5) If an agency, other than the LEA, (or state agency responsible for developing the child's IEP) fails to provide the transition services described in the IEP, the LEA (or the state agency responsible for developing the child's IEP) shall reconvene the ARC to identify alternative strategies to meet the child's transition objectives set out in the IEP.
(6) A participating agency shall not be relieved of the responsibility under IDEA to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of the agency.

Section 7. Private School Placements by the LEA. (1) Prior to an LEA placing a child with a disability in, or referring a child to, a private school or facility, the LEA shall initiate and conduct an ARC meeting to develop an IEP for the child.
(2) The LEA shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.
(3) After a child with a disability is placed in a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the LEA.
(4) If a private school or facility initiates the meetings, the LEA shall ensure that the parents and LEA staff are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented. If a child with a disability is placed by the LEA in a private school or facility, the LEA shall remain responsible for compliance with 707 KAR Chapter 1.
(5) An LEA that places or refers a child with a disability in a private school shall ensure that the child:
(a) Is provided specially designed instruction and related services in conformance with an IEP that meets the standards of 707 KAR Chapter 1, and at no cost to the parents;
(b) Is provided an education that meets the standards of the LEA including general curriculum standards; and
(c) Has all the rights of any child with a disability served by the LEA.

Section 8. IEP Accountability. (1) An LEA shall provide specially designed instruction and related services to each child with a disability in accordance with his IEP and shall make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.
(2) An LEA shall be responsible for including children with disabilities in the statewide assessment as provided in 703 KAR Chapter 5.
(3) The provisions of this administrative regulation shall not limit the parents' right to ask for revision of the child's IEP or to invoke due process procedures if the parents feel that good faith efforts are not being made.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
APPROVED BY AGENCY: June 8, 2000
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EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Division of Exceptional Children Services
(As Amended at ARRS, July 11, 2000)


NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 158.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these [seek] funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for a comprehensive system of personnel development for district staff who provide services to children with disabilities.

Section 1. Comprehensive System of Personnel Development. A LEA shall have information filed with the Kentucky Department of
Education to demonstrate that all personnel necessary to carry out the requirements in 707 KAR Chapter 1 are appropriately and adequately prepared. As part of this information, the LEA shall take steps to provide that all personnel who work with children with disabilities have the skills and knowledge necessary based on certification ADMINISTRATION regulations contained in 704 KAR Chapter 20, to meet the needs of the children. This information shall include a description of how the LEA will:

(1) Provide general and special education personnel with the content knowledge and collaborative skills to continue to meet the needs of children with disabilities;

(2) Enhance the ability of teachers and others to use strategies, including [such as] behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and of others;

(3) Acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the LEA will, if appropriate, adopt promising practices, materials, and technology;

(4) Recruit and retain qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the fields of regular education, special education, and related services;

(5) Ensure that the information is integrated, to the maximum extent possible, with other professional development plans and activities developed and carried out by the LEA; and

(6) Provide for the joint training of parents and special education, related services, and general education personnel.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
APPROVED BY AGENCY: June 8, 2000
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EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Division of Exceptional Children Services
(As Amended at ARR/RS, July 11, 2000)


NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.220 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations generally to carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these funds in accordance with state and federal laws. 20 USC 1400 et seq. 1400 Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for making placement decisions about children with disabilities.

Section 1. Placement Decisions. (1) An LEA shall ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled. The LEA shall ensure that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if education in the regular education environment with the use of supplementary aids and services cannot be satisfactorily achieved due to the nature or severity of the disability. [the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.]

(2) An LEA shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(3) The continuum shall include the alternative placements of:

(a) Instruction in regular classes;

(b) Special classes;

(c) Special schools;

(d) Home instruction; and

(e) Instruction in hospitals and institutions.

(4) The LEA shall make provision for supplementary services to be provided in conjunction with regular class placement.

(5) In determining the educational placement of a child with a disability, the LEA shall ensure that the placement decision is made by the ARC in conformity with the least restrictive environment provisions.

(6) A child's placement shall be:

(a) Determined at least annually;

(b) Based on the child's IEP; and

(c) As close as possible to the child's home.

(7) Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he would attend if not disabled.

(8) In selecting the least restrictive environment, consideration shall be given to any potential harmful effects on the child or on the quality of services that he needs.

(9) A child with a disability shall not be removed from education in an appropriate regular classroom solely because of needed modifications in the general curriculum.

(10) In providing or arranging for the provision of nonacademic and extracurricular services and activities, an LEA shall ensure that a child with a disability participates in nondisabled children in those services and activities to the maximum extent appropriate to the needs of the child.

Section 2. Class Size. (1) An LEA shall provide special education according to caseload for special classes for each child with a disability as follows:

(a) Emotional-behavior disability is eight (8);

(b) Functional mental disability is ten (10);

(c) Hearing impairment is six (6);

(d) Mild mental disability for primary is fifteen (15) and for secondary is fifteen (15);

(e) Multiple disabilities is ten (10);

(f) Orthopedic impairment is sixteen (16);

(g) Other health impairment is sixteen (16);

(h) Specific learning disability for primary is ten (10) and for secondary is fifteen (15); and

(i) Visual impairment is ten (10).

(2) An LEA shall provide special education according to class size for resource classes for each child with a disability as follows:

(a) Emotional-behavior disability is eight (8);

(b) Functional mental disability is eight (8);

(c) Hearing impairment is eight (8);

(d) Mild mental disability is ten (10);

(e) Multiple disabilities is eight (8);

(f) Orthopedic impairment is ten (10);

(g) Other health impairment is ten (10);

(h) Specific learning disability is ten (10); and

(i) Visual impairment is eight (8).

(3) Children with disabilities that meet the definition of autism; deaf-blindness; developmental delay for ages six (6), seven (7), and eight (8); and traumatic brain injury shall be served in regular classes, special classes, or resource classes as determined by the ARC.

(4) If a teacher of exceptional children provides services through the collaborative model, the maximum caseload shall not exceed twenty (20) children with disabilities for secondary and fifteen (15) children with disabilities for primary. [The number of children with disabilities receiving services through collaboration in a regular education class shall not exceed more than one half (1/2) the total membership of the class.]

(5) Pursuant to KRS 157.350, if caseload for special classes or class size for resource classes exceeds the maximum specified in this section for thirty (30) days, an LEA shall submit a waiver request to.
the Kentucky Department of Education.

Section 3. Case Load for Resource Teachers. Case load for resource teachers refers to maximum number of student records for whom a teacher can be assigned. An LEA shall make those assignments based on the following:

1. Emotional-behavioral disability is fifteen (15);
2. Functional mental disability is ten (10);
3. Hearing impairment is eight (8);
4. Mild mental disability for primary is fifteen (15) and for secondary is twenty (20);
5. Multiple disabilities is ten (10);
6. Orthopedic impairment is twenty (20);
7. Other health impairment is twenty (20);
8. Specific learning disability for primary is fifteen (15) and for secondary is twenty (20); and
9. Visual impairment is ten (10).

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
APPROVED BY AGENCY: June 8, 2000
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EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Division of Exceptional Children Services
(As Amended at ARRS, July 11, 2000)

707 KAR 1:360, Confidentiality of information.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these [state] funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements ensuring confidentiality of information maintained by school districts regarding children with disabilities.

Section 1. Access Rights. (1) An LEA shall permit a parent to inspect and review any education records relating to his child that are collected, maintained, or used by the LEA. The LEA shall comply with a request without unreasonable delay and before any ARC meeting or due process hearing and in no case more than forty-five (45) days after the request has been made.
(2) The right to inspect and review education records under this administrative regulation shall include:
(a) The right to a response from the LEA to reasonable requests for explanations and interpretations of the records;
(b) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
(c) The right to have a representative of the parent inspect and review the records.
(3) An LEA may presume that a parent has authority to inspect and review records relating to his child unless the LEA has been advised under a court order that the parent does not have the authority.

Section 2. Record of Access. An LEA shall keep a record of parties obtaining access to education records collected, maintained, or used under 707 KAR Chapter 1 (except access by parents and authorized employees of the LEA), including:
(1) The name of the party;
(2) The date access was given; and
(3) The purpose for which the party is authorized to use the records.

Section 3. Records on More Than One (1) Child. If any education record includes information on more than one (1) child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of only that specific information.

Section 4. Types and Location of Information. An LEA shall provide parents on request a list of the types and location of education records regarding their child with disabilities that is collected, maintained, or used by the LEA.

Section 5. Fees. (1) An LEA may charge a fee for copies of records that are made for a parent under 707 KAR Chapter 1 if the fee does not effectively prevent the parent from exercising his right to inspect and review the record.
(2) The LEA shall not charge a fee to search for or to retrieve information under 707 KAR Chapter 1.

Section 6. Amendment of Records and Opportunity for Hearing. (1) A parent who believes that information in the education records collected, maintained, or used under 707 KAR Chapter 1 is inaccurate, misleading, or violates the privacy or other rights of the child may request the LEA to amend the information.
(2) If a request to amend the information is made by a parent or legal guardian, the hearing procedures contained in 702 KAR 1:140 shall apply.

Section 7. Consent. (1) Except as to disclosures to appropriate law enforcement agencies as referenced in 707 KAR 1:340, Section 12, parental consent shall be obtained before personally identifiable student information is:
(a) Disclosed to anyone other than officials of the participating agencies collecting or using the information under 707 KAR Chapter 1; or
(b) Used for any purpose other than meeting a requirement under 707 KAR Chapter 1.
(2) An LEA shall not release information from education records to participating agencies without parental consent unless authorized to do so under the Family Educational Rights and Privacy Act (FERPA).
20 USC Section 1232g.
(3) If [in the event] a parent refuses to provide consent for release of personally identifiable information, a party may request a due process hearing under the provision of 707 KAR 1:340 or comply with the FERPA.

Section 8. Safeguards. (1) An LEA shall protect the confidentiality of personally identifiable student information at collection, storage, disclosure, and destruction stages.
(2) An LEA shall assign a staff member to assume responsibility for ensuring the confidentiality of any personally identifiable student information.
(3) An LEA employee collecting or using personally identifiable information shall receive training or instruction regarding 707 KAR 1:360.
(4) An LEA shall maintain, for public inspection, a current listing of the names and positions of employees within the LEA who may have access to personally identifiable student information.

Section 9. Destruction of Information. An LEA shall inform the parent when personally identifiable student information collected, maintained, or used under 707 KAR Chapter 1 is no longer needed to provide education services to a child. The information shall be destroyed at the request of a parent. However, a permanent record of a child's name, address, and phone number, his grades, attendance record, classes attended, grade level completed, and year completed
may be maintained without time limitations.

Section 10. Children's Rights. The rights of parents regarding education records under FERPA and 707 KAR Chapter 1 shall be transferred to the child at the age of eighteen (18), unless the child has been declared incompetent under KRS Chapter 387 in a court of law.

KEVIN M. NOLAND, Interim Commissioner
HELEN NORTON, Chairperson
KEVIN M. NOLAND, Attorney
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EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Division of Exceptional Children Services
(As Amended at ARRS, July 11, 2000)


NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.220 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.225 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes standards for school districts to make appropriate educational services available to children with disabilities who have been enrolled in private schools by their parents.

Section 1. Children with Disabilities Enrolled in Private Schools by Their Parents when FAPE is at Issue. (1) An LEA shall make FAPE available to each child with a disability. If a parent decides to place his child with a disability in a private school after the offer of FAPE, the LEA shall not be required to pay for the cost of the private education. Disagreements between a parent and the LEA regarding the availability of a program appropriate for the student and financial responsibility shall be subject to the due process procedures in 707 KAR Chapter 1.

(2) If a parent of a child with a disability who previously received special education and related services under the authority of the LEA, enrolls the child in a private school without the consent of or referral by the LEA, a hearing officer or a court may award financial reimbursement to the parent if it is determined that the LEA did not offer FAPE to the child in a timely manner and the private placement is appropriate. This may be awarded even if the parents did not receive consent from the LEA for the private placement and the LEA did not make a referral to the private school. A hearing officer or a court may determine a private school placement to be appropriate even though it does not meet state standards that apply to an LEA.

(3) The cost of the financial reimbursement described in subsection (2) of this section may be reduced or denied in one (1) of the following situations:

(a) If at the most recent ARC meeting prior to the removal by the parents of their child with a disability to the private school, the parents did not inform the LEA that they were rejecting the proposed LEA placement, including stating their concerns and their intent to enroll the child in a private school at public expense;

(b) If at least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child, the parents did not give written notice to the LEA of the information described in paragraph (a) of this subsection;

(c) If, prior to the parent's removal of the child, the LEA informed the parents of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(d) Upon a judicial finding of unreasonableness with respect to the actions taken by the parents.

(4) The cost of financial reimbursement shall not be reduced or denied for the failure to provide the notice described above if:

(a) The parent is illiterate;

(b) Compliance with this notice requirement would likely result in physical or serious emotional harm to the child;

(c) The school prevented the parent from providing the notice; or

(d) The parent had not received notice from the LEA of his obligation to provide this notice.

Section 2. Children with Disabilities Enrolled by Their Parents in Private School. An LEA shall locate, identify, and evaluate all private school children with disabilities, including religious school children residing within the boundaries of the LEA. These activities shall be comparable to the activities to locate, identify, and evaluate children with disabilities in the public schools. An LEA shall consult with appropriate representatives of the private schools on how to carry out these activities.

Section 3. Service Plans. (1) An LEA shall consult with representatives of private schools in deciding how to conduct the annual count of the number of private school children with disabilities. This child count shall be used to determine the amount that the LEA shall spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year.

(2) The amount to be spent shall be an amount that is the same proportion of the LEA's total subgrant as the number of private school children with disabilities aged three (3) to twenty-one (21) residing within the boundaries of the LEA to the total number of children with disabilities aged three (3) to twenty-one (21) residing within the boundaries of the LEA. This formula shall be applied to children aged three (3) through five (5).

(3) Expenditures for child find activities shall not be considered in determining the amount the LEA is required to spend under this section.

(4) A private school child with a disability shall not have an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(5) An LEA shall consult, in a timely and meaningful way, with appropriate representatives of private school children with disabilities regarding the following:

(a) The funding available under this administrative regulation;

(b) The number of private school children with disabilities; and

(c) The needs of those children and their location.

(6) The consultation shall result in decisions as to:

(a) Which children will receive services under a services plan;

(b) What services will be provided;

(c) How and where the services will be provided; and

(d) How the services provided will be evaluated.

(7) The consultation with the appropriate representatives of the private school children with disabilities shall give the representatives a genuine opportunity to express their views regarding each matter listed in subsections (5) and (6) of this section. The consultation shall take place prior to the decision made by the LEA about the services plans. The final decision shall be the responsibility of the LEA.

(8) If a private school child with a disability is to receive special education and related services through a services plan, the LEA shall:

(a) Initiate and conduct ARC meetings to develop, review, and revise a services plan; and

(b) Ensure that a representative of the private school attends each ARC meeting. If the representative cannot attend the LEA shall use other methods to ensure participation by the private school including individual or conference telephone calls.

Section 4. Services Provided. (1) An LEA shall ensure that services provided under a services plan will be provided by personnel meeting the same standards as personnel providing services in the
public school.

(2) Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(3) A private school child with a disability who has been designated to receive services shall have a services plan that describes the specific special education or related services that the LEA will provide in light of the services the LEA has determined to provide private school children with disabilities through the process in 707 KAR 1:370, Section 3.

(4) The services plan shall, to the extent appropriate:

(a) Meet the requirements of an IEP under 707 KAR Chapter 1 with respect to the services provided; and

(b) Be developed, reviewed, and revised consistent with the requirements to develop, review, and revise IEPs.

Section 5. Location of Services. (1) A service to a private school child with a disability may be provided at a site determined by the LEA. If necessary for the child to benefit from or participate in the services provided under a services plan, the private school child with a disability shall be provided transportation:

(a) From the child's school or the child's home to a site other than the private school; and

(b) From the service site to the private school, or to the child's home, depending on the timing of the services.

(2) An LEA shall not be required to provide transportation from the child's home to the private school.

(3) The cost of transportation may be included in calculating the amount to be expended on private school children with disabilities.

Section 6. Due Process Procedures. The due process procedures afforded to parents and children with disabilities described in 707 KAR 1:340, Sections 4, 5, and 6, [Section 4(5), and (6)] shall not apply to complaints that an LEA failed to meet the requirements of this administrative regulation, including the provision of services indicated on a services plan. However, these requirements may be the basis for a written formal complaint under 707 KAR 1:340, Section 13. The due process procedures described in 707 KAR 1:340 shall apply to complaints that an LEA failed to complete its responsibilities under child find for private school children with disabilities and its responsibilities to evaluate and determine eligibility for private school children with disabilities.

Section 7. Restrictions on Serving Nonpublic Students. (1) An LEA shall not use funds under Part B of IDEA to finance the existing level of instruction in a private school or to otherwise benefit the private school. The LEA shall use the funds provided under IDEA to meet the special education and related services needs of private school children with disabilities but not for:

(a) The needs of a private school; or

(b) The general needs of the students enrolled in the private school.

(2) An LEA may use funds under Part B of IDEA to make public school personnel available in private schools to the extent necessary to provide services under a services plan and if those services are not normally provided in the private school.

(3) An LEA may use funds under Part B of IDEA to pay for the services of private school personnel to provide services under a services plan if the employee performs the services outside his regular hours of duty and the employee performs the services under the supervision and control of the LEA.

(4) The LEA shall keep title to and exercise continuing administrative control of all property, equipment, and supplies that the LEA acquired with funds under Part B of IDEA and uses for the benefit of private school children with disabilities. An LEA may place equipment and supplies in a private school for the period of time needed to provide the services.

(5) The LEA shall ensure that the equipment, and supplies placed in a private school are used only for Part B purposes and can be removed from the private school without remodeling the private school facility.

(6) The LEA shall remove equipment and supplies from the private school if the equipment and supplies are no longer needed for Part B purposes, or if removal is necessary to avoid unauthorized use of the equipment and supplies.

(7) The LEA shall not use any funds under Part B of IDEA for repairs, minor remodeling, or construction of private school facilities.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
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EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Division of Exceptional Children Services
(As Amended at ARRS, July 11, 2000)

707 KAR 1:380. Monitoring and recovery of funds.


NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these [such] funds in accordance with state and federal laws. 20 USC 1400 et seq., and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes the procedures that will be followed by the Department of Education in the event it is necessary to take corrective action on behalf of children with disabilities.

Section 1. Monitoring. (1) The Kentucky Department of Education shall conduct monitoring of LEAs and other agencies that provide educational services to children with disabilities on a regular basis to determine compliance with federal and state requirements. Off-site monitoring shall include review of the following:

(a) Reports, including count and data tables, and performance reports;

(b) Complaints and due process hearings;

(c) Finance reports; and

(d) Documentation indicating inclusion of children with disabilities in the assessment and accountability system.

(2) Off-site monitoring shall identify any areas of noncompliance that indicate the need for further investigation, including an on-site review.

(3) On-site monitoring shall include:

(a) Review of individual children’s records, including records of children served by private or state-operated schools;

(b) Interviews with staff;

(c) A survey of parents;

(d) Visits in schools and classrooms; and

(e) Other activities, including review of financial records.

(4) Following an off-site or on-site review, the Kentucky Department of Education shall issue a written report. Deficiencies specified in the report shall be the basis for the LEA to develop a corrective action plan (CAP) for review and approval by the Kentucky Department of Education. Prior to the development of the CAP, the LEA shall have the opportunity to submit additional information to verify or clarify issues related to the report. Each CAP shall be monitored and enforced by the Kentucky Department of Education.

(5) CAP shall be submitted to the Kentucky Department of Education no later than thirty (30) business days after the LEA receives the report of noncompliance. The CAP shall include:

(a) A statement of the matter to be corrected; and

(b) The steps the LEA shall take to correct the problem and
fuses to meet the conditions or timelines in the conditional approval letter, IDEA funds may be withheld by the Kentucky Department of Education. The Kentucky Department of Education shall make no further payments to the LEA until the Kentucky Department of Education verifies that compliance has been achieved. If the LEA makes no effort to correct the deficiency within sixty (60) calendar days of withholding of IDEA funds, further sanctions may be imposed pursuant to appropriate provisions in KRS 156.132. Withholding shall remain in effect during the pendency of any additional sanctions; or
(c) Withholding of Support Education Excellence in Kentucky (SEEK) add-on funds. SEEK add-on funds for exceptional children shall be withheld in trust as required in KRS 157.224. This sanction shall be lifted when the Kentucky Department of Education verifies compliance with substantive special education requirements; and
(d) Other actions available under state and federal law shall be employed as circumstances warrant;
(3) The Kentucky Department of Education may conduct an off-site or on-site review to validate compliance.

Section 5. Opportunity for a Hearing. Prior to the withholding of IDEA or SEEK add-on funds, the LEA shall be provided notice and an opportunity for an administrative hearing in accordance with KRS Chapter 13B.

Section 6. Child Count Audit. (1) Child count figures submitted to the Kentucky Department of Education for the purpose of receiving funds under IDEA shall be subject to an audit validating the count. The Kentucky Department of Education shall conduct the child count audits prior to withholding funds pursuant to Section 4(3)(b) of this administrative regulation.
(2) If an LEA counts more children on its December 1 child count than are actually being served, or counts children who are ineligible to be counted for funding, the LEA shall reduce its child count or return the funds received for each misclassified child, if:
(3) [re] The reduction may be initiated by:
(a) The LEA upon recognizing an error exists; or
(b) The Kentucky Department of Education shall reduce the number through an on-site validation of the child count figures.
(4) [However] Notice and opportunity for hearing under KRS Chapter 13B shall be provided before recovery of funds.
(5) [Every] Annually, the Kentucky Department of Education shall review and, as needed, select LEAs for a child count audit. A LEA may be selected for audit based on the following:
(a) Recurring noncompliances identified through off-site or on-site monitoring;
(b) Recurring substantiated complaints or final decisions from due process hearings or the Exceptional Children Appeals Board on similar issues;
(c) Failure to comply with a CAP within the specified timelines or with the decision in a complaint investigation after appeals have been exhausted, or with a hearing or appeal decision after appeal rights have been exhausted within specified timelines;
(d) Increases or decreases of total child counts, changes in categorical areas, or amendments to the original IDEA-B child count report that cannot be justified by district-supplied data like [such as] annual child count data and districtwide enrollment data or other district-supplied sources of data;
(e) Unusual child count data, e.g., [such as] more than fifteen (15) percent of the total school population reported as having disabilities, no change in number from year to year, high numbers of low incidence populations or unusually low percentages of children with disabilities when compared to similar LEAs; or
(f) Previous audits resulting in reductions in addition to the presence of any of the items listed in paragraphs (a) through (e) of this subsection.

(6) [If] Prior to initiating a child count audit, the Kentucky Department of Education shall:
(a) Notify the LEA in writing of the pending audit and request a roster of children by school, teacher, age, and individual disability category as reported on the specific count being audited;
(b) Verify the number of children on the roster with the number reported on the LEA's child count; and
(c) Randomly select from the roster the educational records to be audited.

- 509 -
The Kentucky Department of Education shall conduct an on-site record review based on the standards in 707 KAR Chapter 1 and analyze the data collected to determine the number of records out of compliance.

The Kentucky Department of Education shall prepare a draft audit report which includes:
   (a) The reason for the child count audit;
   (b) Date the audit was conducted;
   (c) Total number of records reviewed;
   (d) An analysis of the data obtained during the audit;
   (e) The specific reductions by disability; and
   (f) Notice that the LEA has thirty (30) business days from the date of the report to submit additional information for each child to demonstrate compliance.

The LEA may request copies of the data collected and used to produce the findings in the audit report and submit additional information for each child to demonstrate compliance. If the LEA submits additional information to demonstrate compliance, the Kentucky Department of Education shall have thirty (30) business days from receipt of the information to review the documentation and issue a final report.

Within thirty (30) business days of the date of the final audit report, if applicable the LEA shall submit to the Kentucky Department of Education an amended child count report and a CAP to address deficiencies identified during the audit.

The Kentucky Department of Education shall certify the reduced count and submit a correction to the U.S. Department of Education and the Kentucky Department of Education's Division of Finance.

The IDEA grant award for the fiscal year affected shall be recalculated and:
   (a) If the child count reduction affects the current year's project then the amount of the recovery shall be subtracted from the original allocation and shall not be sent to the LEA the following year;
   (b) If the reduction in grant award is for a year in which funds have already been expended, the LEA's grant shall be reduced the following year by the reduced amount in a manner that shall not disrupt current delivery of instructional services; or
   (c) If the reduction affects an application for the fiscal year, the LEA shall be informed of the reduction of the recalculated grant award for the following year.

Follow-up Audit. The Kentucky Department of Education shall conduct a follow-up audit at the time the CAP is scheduled for completion. The Kentucky Department of Education shall verify that deficiencies have been corrected. If the follow-up visit verifies that the LEA has completed all CAP activities and no areas of noncompliance are identified, the Kentucky Department of Education shall issue a final report.

KEVIN M. NOLAND, Interim Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
APPROVED BY AGENCY: April 12, 2000
FILED WITH LRC: April 12, 2000 at 1 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(As Amended at ARRS, July 11, 2000)

800 KAR 6:075. Valuation of life insurance policies.

RELATES TO: KRS 304.2-290, 304.6-130 through 304.6-180, 304.15-410

STATUTORY AUTHORITY: KRS 304.2-110, 304.6-130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may promulgate reasonable administrative regulations necessary for or as an aid to the enforcement of the Kentucky Insurance Code. KRS 304.6-130 requires the commissioner to annually value the reserve liabilities for all outstanding life insurance policies and annuity and pure endowment contracts, as shown in the National Association of Insurance Commissioners Life and Accident and Health Annual Statement Form whether or not itemized in Exhibit 8 of that statement. This administrative regulation introduces the use of new select mortality factors, mortality tables, and minimum reserving requirements for life insurance policies with nonlevel premiums and benefits or secondary guarantees.

Section 1. Definitions. [1] *Basic reserves* means reserves calculated in accordance with KRS 304.6-150.

[2] *Contract segmentation method* means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment to the end of the latest policy year as determined below. All calculations shall be made using the 1980 CSO valuation tables, or any other valuation mortality table adopted by the National Association of Insurance Commissioners after the effective date of this administrative regulation and promulgated by administrative regulation by the commissioner for this purpose, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Section 4(2) of this administrative regulation. The length of a particular contract segment shall be set equal to the minimum of the value "t" for which G_t is greater than R_t. If G_t never exceeds R_t, the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy. G_t and R_t are defined as follows:

\[
G_t = \frac{GP_{x+k+1}}{GP_{x+k+1-1}}
\]

where:
   x = original issue age;
   k = the number of years from the date of issue to the beginning of the segment;
   t = 1, 2, ..., t is reset to 1 at the beginning of each segment;
   GP_{x+k+1} = Guaranteed gross premium per thousand of face amount for year "t" of the segment, ignoring policy fees only if level for the premium paying period of the policy.

\[
R_t = \frac{Q_{x+k+1}}{Q_{x+k+1-1}}
\]

However, R_t may be increased or decreased by one (1) percent in any policy year, at the company's option, but R_t shall not be less than one (1):

where:
   x, k and t are as defined above; and
   Q_{x+k+1} = valuation mortality rate for deficiency reserves in policy year k+1 but using the mortality of Section 4(2)(b) of this administrative regulation if Section 4(2)(c) of this administrative regulation is elected for deficiency reserves.
   However, if GP_{x+k+1} is greater than 0 and GP_{x+k+1} is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+1} and GP_{x+k+1} are both equal to 0, G_t shall be deemed to be 0.

[3] *Deficiency reserves* means the excess, if greater than zero, of minimum reserves calculated in accordance with KRS 304.6-180 over basic reserves; [4]

[5] Minimum reserves calculated in accordance with KRS 304.6-180 over;

[6] Basic reserves;

[4] *Guaranteed gross premiums* means the premiums under a policy of life insurance that are guaranteed and determined at issue.

[5] *Maximum valuation interest rates* means the interest rates defined in KRS 304.6-145 that are to be used in determining the minimum standard for the valuation of life insurance policies.

[6] *1980 CSO valuation tables* means the Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten (10) years selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

[7] *Scheduled gross premium* means, for each policy year, the smallest illustrated gross premium set forth at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium for each policy year described in Section 6(1)(e) of this administrative
regulation, if any, or else the minimum premium described in Section 6(1)(f) of this administrative regulation set forth at issue.

(9) "Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment [such that], at the beginning of the segment, the present value of the net premiums within the segment equals the present value of the death benefits within the segment, plus the present value of any unusual guaranteed cash value as described in Section 5(4) of this administrative regulation occurring at the end of the segment, less any unusual guaranteed cash value occurring at the start of the segment, plus for the first segment only, the excess of the net level annual premium over a net one (1) year term premium for the benefits provided for in the first policy year. The net level annual premium is equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan insurance the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy.

(b) The length of each segment is determined by the "contract segmentation method", as defined in subsection (2) of this section.

(c) The interest rates used in the present value calculations for any policy shall [may] not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the length of each segment of the policy.

(d) For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

(9) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for one (1) year term insurance in the amount of the guaranteed death benefit in that policy.

(10) "Ten (10) year select factors" means the select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.

(11) "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums where guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is [such that], at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of the net level annual premium over a net one (1) year term premium for the benefits provided for in the first policy year. The net level annual premium is equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. The interest rates used in the present value calculations for any policy shall [may] not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

(12) "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits, other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts, and mortality or expense charges are made to the policy.

Section 2. Applicability. (1) This administrative regulation shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this administrative regulation, subject to the following exceptions and conditions.

(2) This administrative regulation shall not apply to any individual life insurance policy issued on or after the effective date of this administrative regulation if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before the effective date of this administrative regulation, that guarantees the premium rates of the new policy. This administrative regulation also shall not apply to subsequent policies issued as a result of the exercise of a reentry provision, or a derivation of the provision, in the new policy.

(3) This administrative regulation shall not apply to any universal life policy that meets the following requirements:

(a) Secondary guarantee period, if any, of five (5) years or less;
(b) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the 1980 CSO valuation tables and the applicable valuation interest rate; and
(c) The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.

(4) This administrative regulation shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or account component.

(5) This administrative regulation shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

(6) This administrative regulation shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period of excess of one (1) year.

Section 3. Conditions. (1) Calculation of the minimum valuation standard for policies, other than universal life policies, with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, or both, shall be in accordance with the provisions of Section 5 of this administrative regulation.

(2) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of Section 5 of this administrative regulation.

Section 4. General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves. (1) At the election of the company for any one (1) or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors, or any other valuation mortality table adopted by the National Association of Insurance Commissioners after the effective date of this administrative regulation and promulgated by administrative regulation by the commissioner for this purpose. If select mortality factors are elected, they may be the following:

(a) The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
(b) The select mortality factors incorporated by reference by this administrative regulation; or
(c) Any other table of select mortality factors adopted by the NAIC after the effective date of this administrative regulation and promulgated by administrative regulation by the commissioner for the purpose of calculating basic reserves.

(2) Deficiency reserves, if any, shall be calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A shall be obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one (1) or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors, or any other valuation mortality table adopted by the NAIC after the effective date of this administrative regulation and promulgated by administrative regulation by the commissioner. If select mor-
tality factors are elected, they may be the following:
(a) The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
(b) The select mortality factors incorporated by reference by this administrative regulation;
(c) For durations in the first segment, X percent of the select mortality factors incorporated by reference by this administrative regulation, subject to the following:

1. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;
2. X shall not be less than twenty (20) percent;
3. X shall not decrease in any successive policy years;
4. [X is such that:] When using the valuation interest rate used for basic reserves, the actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X, is greater than or equal to the actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;
5. [X is such that:] The mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five (5) years after the valuation date;
6. The appointed actuary shall increase X at any valuation date when it is necessary to continue to meet all the requirements of this subsection;
7. The appointed actuary may decrease X at any valuation date if [as long as] X does not decrease in any successive policy years and as long as it continues to meet all the requirements of this Section 42(2)(c) of this administrative regulation;
8. The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapse of any anticipated or actual increases in gross premiums; and
9. If X is less than 100 percent at any duration for any policy, then the appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of KRS 304.6-171 and 806 KAR 6:100, Section 6, and the appointed actuary shall annually opine for all policies subject to this administrative regulation as to whether the mortality rates resulting from the application of X meet the requirements of this subsection. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.
(d) Any other tables of select mortality factors adopted by the National Association of Insurance Commissioners after the effective date of this administrative regulation and promulgated by administrative regulation by the commissioner for the purpose of calculating deficiency reserves.

(3) Any set of select mortality factors may be used only for the first segment. This applies to both basic reserves and deficiency reserves. However, if the first segment is less than ten (10) years, the appropriate ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

(4) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.

(5) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one (1) year after the date of the change shall be the greatest of the following:
(a) Reserves calculated ignoring the guarantee;
(b) Reserves assuming the guarantee was made at issue; and
(c) Reserves assuming that the policy was issued on the date of the guarantee.

(5) The commissioner may require that the company document the extent of the adequacy of reserves for specific blocks, including [but not limited to] policies issued prior to the effective date of this administrative regulation. This documentation may include a demonstration of the extent to which aggregation with other non-specific blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of KRS 304.6-171 and 806 KAR 6:100, Section 6.

Section 5. Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits that are Not Nonrestricted Reserves
(1) Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the following adjustments may be made:
(a) Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.
(b) Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(2) The deficiency reserve at any duration shall be calculated as follows:
(a) On a unitary basis if the corresponding basic reserve determined by subsection (1) of this section is unitary,
(b) On a segmented basis if the corresponding basic reserve determined by subsection (1) of this section is segmented; or
(c) On the segmented basis if the corresponding basic reserve determined by subsection (1) of this section is equal to both the segmented reserve and the unitary reserve.

(3) This subsection shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality specified in Section 42(2) of this administrative regulation and rate of interest.

(4) If deficiency reserves, rates of interest determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(3) Basic reserves shall not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves shall not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if midterm reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the ten (10) year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no event shall total reserves, including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon completion of the guaranteed period, be less than the amount the policyholder would receive, including the cash surrender value of the supplemental benefits, if any, referred to above, exclusive of any deduction for policy loans, upon termination of the policy.

(4)(a) For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an "m" year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where "m" is the number of years from the date of issue to the date the unusual cash surrender value is
scheduled.

(b) The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an "n" year policy providing term insurance plus a pure endowment equal to the net present guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:

1. "n" is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:
   a. The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or
   b. The mandatory expiration date of the policy; and
2. The net premium for a given year during the "n" year period is equal to the product of the net to gross ratio and the respective gross premium;
3. The net to gross ratio is equal to the present value, at the beginning of the "n" year period, of death benefits payable during the "n" year period plus the present value, at the beginning of the "n" year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the "n" year period, divided by the present value, at the beginning of the "n" year period, of the scheduled gross premiums payable during the "n" year period.

(c) For purposes of this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of the following:

1. 110 percent of the scheduled gross premium for that year;
2. 110 percent of the cash surrender value of one (1) year's accrued in the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and
3. Five (5) percent of the first policy year surrender charge, if any.

(5) At the option of the company, the following approach for reserves on yearly renewable term reinsurance may be used:

(a) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

(b) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as calculated in subsection (3) of this section.

(c) Deficiency reserves may be determined by calculating for each policy year, the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses.

(d) For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this administrative regulation by the National Association of Insurance Commissioners and promulgated by administrative regulation by the commissioner for this purpose.

(e) A policy shall be considered an attained-age-based yearly renewable term life insurance policy for purposes of subsection (6) of this section if:

1. The premium rates, cn both the initial current premium scale and the guaranteed maximum premium scale, are based upon the attained age of the insured to [seek] that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and
2. The premium rates, cn both the initial current premium scale and the guaranteed maximum premium scale, are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

(f) For policies that become attained-age-based yearly renewable term policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

1. The initial period is constant for all insureds of the same sex, risk class, and plan of insurance; or
2. The initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and
3. After the initial period of coverage, the policy meets the conditions of paragraph (e) of this subsection.

(g) If an insurer elects this optional exemption under this subsection, the approach herein shall be applied in determining reserves for all attained-age-based yearly renewable term life insurance policies issued on or after the effective date of this administrative regulation.

(7) Unitary basic reserves and unitary deficiency reserves for a yearly renewable term life insurance policy need not be calculated if the following conditions are met:

(a) The policy consists of a series of n-year periods, including the first period and all renewal periods, where "n" is the same for each period, except that for the final renewal period, "n" may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ten (10) years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

(b) The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten (10) year select mortality factors; and

(c) There are no cash surrender values in any policy year.

(8) Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

(a) At issue, the insured is age twenty-four (24) or younger;

(b) Until the insured reaches the end of the juvenile period, which shall occur at or before age twenty-five (25), the gross premiums and death benefits are level, and there are no cash surrender values; and

(c) After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

Section 6. Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies that Contain Provisions Reserving the Right of a Policyholder to Keep a Policy in Force Over a Secondary Guarantee Period. (1) Policies with a secondary guarantee include, but are not limited to, the following:

(a) A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;

(b) A policy in which the minimum premium at any duration is less than the corresponding net valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this administrative regulation by the National Association of Insurance Commissioners and promulgated by administrative regulation by the commissioner for this purpose; and

(c) A policy with any combination of paragraphs (a) and (b) of this...
subsection.

d) A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one (1) secondary guarantee, the minimum reserve shall be the greater of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in subsections (2) and (3) of this section shall be recalculated from issue to reflect these changes.

(e) Specified premiums mean the premiums specified in the policy or imputable by the terms of the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

(f) For purposes of this subsection, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors, including mortality charges, loadings, expense charges, and the interest crediting rate, which are all guaranteed at issue.

(g) The one (1) year valuation premium means the net one (1) year premium based upon the original schedule of benefits for a given policy year. The one (1) year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in Section 4(2)(b), (c), and (d) of this administrative regulation may not be used to calculate the one (1) year valuation premiums.

(h) The one (1) year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

(2) Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in Section 1(2) of this administrative regulation.

(3) Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in Section 5(2) of this administrative regulation with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

(4) The minimum reserves during the secondary guarantee period shall be the greater of the following:

(a) The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantee; or

(b) The minimum reserves required by other rules or administrative regulations governing universal life plans.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Select Mortality Factors, Male Aggregate", (4th Quarter, 1998 Edition), National Association of Insurance Commissioners;

(b) "Select Mortality Factors, Male Nonsmoker", (4th Quarter, 1998 Edition), National Association of Insurance Commissioners;

(c) "Select Mortality Factors, Female Aggregate", (4th Quarter, 1998 Edition), National Association of Insurance Commissioners;

(d) "Select Mortality Factors, Female Aggregate", (4th Quarter, 1998 Edition), National Association of Insurance Commissioners;

(e) "Select Mortality Factors, Female Nonsmoker", (4th Quarter, 1998 Edition), National Association of Insurance Commissioners;

(f) "Select Mortality Factors, Female Smoker", (4th Quarter, 1998 Edition), National Association of Insurance Commissioners;

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, [Life Division] 215 West Main Street, Frankfort, Kentucky 40602 (40604), Monday through Friday, 8 a.m. to 4:30 p.m.

GALE PEARCE, General Counsel
MONA CARTER for GEORGE NICHOLS III, Commissioner
H. REDMON LAIR, Secretary
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CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at ARRS, July 11, 2000)


RELATES TO: KRS 211.952, 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964(5)-EC 95-862

NECESSITY, FUNCTION, AND CONFORMITY: [EC 95-862, effective July 1, 1995, renumbers the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.] KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). This administrative regulation establishes definitions that are used in 902 KAR Chapter 13 relating to EMTs. [The function of this administrative regulation is to define terms that are used in administrative regulations promulgated by the cabinet relating to EMTs [emergency medical technicians].] Section 1. Definitions. (1) "Adjunct faculty" means a person other than regularly assigned instructional faculty of an EMS educational institution who may be called upon, due to their unique qualifications, to teach a lesson in an EMT training course. ["Applicant" means a person applying for training or certification as an EMT, EMT-instructor, or EMT-first responder under this administrative regulation.]

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

(3) "Certificate" means the certificate issued by the cabinet to an individual qualified to perform the duties of an EMT-. ["EMT-instructor, or EMT-first responder].

(4) "Certified" means a person who holds a certificate issued as a result of fulfilling the requirements of 902 KAR 13:050, 902 KAR 13:070, and 902 KAR 13:110, [pursuant to this administrative regulation.]

(5) "Conviction" means the result of a court hearing or criminal trial which ends in a final judgment or sentence that the accused is guilty of the charged offense or a lesser included offense [as charged]. A finding of guilty shall also include a plea of guilty, or a plea of nolo contendere. A conviction shall be considered a final judgment until it has been expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

(6) "Council" means the Kentucky Emergency Medical Services Council established by KRS 211.952 [and appointed by the secretary of the cabinet to act in an advisory capacity].

(7) "Course completion date" means the date of the last classroom session and completion of the fieldclinical rotation of an EMT training course.

(8) "Employee" means a person who is employed full time, part time, paid or volunteer.

(9) "EMS educational institution" means a public or private organization approved by the cabinet to conduct, supervise and coordinate an EMT training course for initial certification.

(10) "EMS testing agency" means a public or private organization approved by the cabinet to administer a Kentucky EMT certification examination.

(11) "Emergency medical technician" (EMT) means the following levels of EMT certification:

(a) EMT-basic;

(b) EMT-basic instructor;

(c) EMT-instructor trainer;

(d) EMT-first responder;
(a) EMT-first responder instructor and
(f) EMT-paramedic
(1) "EMT-B" means an individual certified by the cabinet to perform a portion of the patient care skills of certified EMTs in order to stabilize a patient's condition until an EMT or other higher level of certified or licensed emergency medical services (EMS) personnel arrives.

(9) "Emergency medical technician-first responder instructor" means a person other than an emergency medical technician instructor or emergency medical technician instructor-trainer, who is certified to teach EMT-first responder courses and who is approved by the cabinet to teach EMT-first responder courses.

(12) "EMT-B graduate" means an EMT-B student who has completed a Kentucky approved EMT-B course of training and testing, but who may not have yet:
(a) Completed the clinical/field rotation that meets or exceeds the requirements in the current Department of Transportation (DOT) EMT-B National Standard Curriculum (NSC) and 902 KAR 13:170, Section 2;
(b) Successfully passed the Kentucky EMT-B practical skills and written certification examinations.

(14) "EMT-B instructor" [16-(a) means a person certified by the cabinet to teach EMT-B [emergency medical technician] and EMT-first responder courses.

(15) "EMT-B instructor candidate" [16-(a) means a person, other than an EMT-B instructor or EMT-B instructor candidate who has completed his initial training as an EMT-B instructor and is performing a student teaching internship [emergency medical technician-undergoing-approved instruction] and evaluation for eligibility to become certified as an EMT-B [emergency medical technician] instructor while under the supervision of a certified EMT-B [emergency medical technician] instructor.

(16) "EMT-first responder" [16-(a) means an individual certified by the cabinet to perform the patient care skills consistent with the authorized procedures described in 902 KAR 13:110, Section 13, in order to stabilize a patient's condition until an EMT-B or other higher level of certified or licensed emergency medical services (EMS) personnel arrives.

(17) "EMT-first responder instructor" [16-(a) means a person, other than an EMT-B instructor who is approved by the cabinet to teach EMT-first responder courses.

(18) "EMT instructor trainer" [11-(a) means a person certified EMT-B instructor appointed by the cabinet to teach EMT-B [emergency medical technician] instructor courses and evaluate EMT-B instructor candidates [emergency medical technician-instructor candidates].

(19) "EMT-paramedic" [16-(a) means an individual certified by the Kentucky Board of Medical Licensure who is trained to provide immediate emergency medical care and intervention, consistent with authorized procedures described in 902 KAR 9:161, in order to stabilize a patient's condition at the scene of an emergency and an route to definitive medical care.

(20) "Facility" means a situation in which a licensed ambulance is utilized to transport a person from a licensed health care facility or a physician's office to another licensed health care facility.

(21) "Lead instructor" means an instructor appointed by a program coordinator to assume primary responsibility for teaching and overseeing an EMT course.

(22) "Medical director" means a physician licensed by the Kentucky Board of Medical Licensure (KBML) or the authorized agent of a contiguous state.

(23) "Emergency situation" means an unforeseen circumstance circumstances in existence, irrespective of the or physical well-being of a patient.

(14) "Emergency situation" means a public or private organization or an individual, or an EMT instructor, or an EMT instructor candidate, approved by the cabinet to conduct supervise, coordinate, and operate an emergency medical technician or EMT-first responder training course.

"The National Registry of Emergency Medical Technicians" (NREMT) means the national professional organization that specializes in practical skills and written examination materials used in evaluation of prehospital personnel [and practical skills testing of EMTs]. Their service may be utilized for implementing the EMT-B, EMT-FR, and EMT-paramedic practical skills and written examinations in the EMS personnel certification or licensing [certification-written and practical examination] process for participating states. The individual prehospital personnel who meet the NREMT minimum examination requirements are eligible for NREMT registration.

"NREMT-B" means an EMT-basic established in subsections (11)(a) and (12) of this section who has met the requirements for NREMT registration established in subsection (23) of this section.

"NREMT-FR" means an EMT-first responder established in subsections (11)(d) and (16) of this section who has met the requirements for NREMT registration established in subsection (23) of this section.

"NREMT-P" means an EMT-paramedic established in subsections (11)(f) and (19) of this section who has met the requirements for NREMT registration established in subsection (23) of this section.

"Pilot program" means a program approved by the cabinet to permit the Division of adult and child health, Class I ambulance service to educate, train and authorize selected EMT students or employees to utilize a specialized procedure, for a specified time period, that has not been previously approved by administrative regulation.

"Preestablished IV" means an intravenous solution that has been established on a person prior to the arrival at the scene or incident at which an EMT-B responds.

"Transition course" means a training program, approved by the cabinet, to prepare an EMT-B or EMT-FR who was not initially trained under the guidelines of the United States (US) Department of Transportation (DOT) National Standard Curriculum (NSC)-1994 for an EMT-B or the US DOT NSC-1995 for an EMT-FR to update him to additional scope of practices that meet the 1994 EMT-B or 1995 EMT-FR DOT NSC and the additional Kentucky practice requirements pursuant to 902 KAR 13:170 and 902 KAR 13:110.

RICE C. LEACH, Commissioner
JOHN WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: May 12, 2000
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CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at ARRS, July 11, 200)


RELATES TO: KRS 211.960 to 211.988, 211.990(5)
STATUTORY AUTHORITY: KRS 194A.030, 211.964[— , EO—95-962]

NECESSITY, FUNCTION, AND CONFORMITY: [EO—95-962; effective July 2-1996; renumbered the Cabinet for Human Resources and became the Department for Public Health and its programs under the Cabinet for Health Services.] KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). [The function of] This administrative regulation establishes the [to establish] requirements for attaining certification as an emergency medical technician-basic instructor (EMT-B instructor) or appointment as an EMT instructor trainer (EMT-instructor trainer).

Section 1. Eligibility for Training. A person applying to become a Kentucky-certified EMT-B instructor shall be eligible for training if he:

(1) Has current registration with the National Registry of Emergency Medical Technicians (NREMT) as a NREMT-basic (NREMT-B) or a NREMT-paramedic (NREMT-P);
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(2) is currently certified in Kentucky as an:
(a) EMT-B; or
(b) Paramedic;
(3) Provides documented proof of having at least two (2) years of experience in the active delivery of prehospital patient care or transport as a part of an organized emergency medical service system; and
(4) Provides verification from the director or chief officer of the organization for whom the experience was provided that the experience was obtained within the last five (5) years prior to application for training.

Section 2. EMT-B Instructor Training. (1) Except as provided in subsection (2) of this section and Section 3(6) of this administrative regulation, a person training to become a Kentucky-certified EMT-B instructor shall complete:
(a) United States (U.S.) Department of Transportation (DOT) EMT-B instructor method of instruction (MOI) educational course conducted by a Cabinet for Health and Family Services approved emergency medical services educational institution; and
(b) Student teaching internship and evaluation for certification as required in Section 3 of this administrative regulation.

(2) A person shall not be required to meet the requirements of subsection (1)(a) of this section if he holds:
(a) A bachelor's degree in education; and
(b) A valid Kentucky teaching certificate.
(c) Documentation of successful completion of a cabinet-approved instructor level methods of instruction (MOI) course that consists of a minimum of forty (40) contact hours that shall include:
1. Adult learning techniques;
2. How to develop a lesson plan;
3. Use of audio visuals;
4. Small group dynamics; and
5. Evaluation techniques.

Section 3. EMT-B Instructor Candidate Student Teaching Internship and Evaluation for Certification. (1) An EMT-B instructor candidate shall be eligible for and complete a student teaching and evaluation internship in which he has:
(a) Met the training requirements referenced in Sections 1 and 2 of this administrative regulation;
(b) Attended a minimum of seventy-five (75) percent of scheduled class sessions of an EMT-B course conducted by a cabinet-approved EMS educational institution;
(c) Served in various capacities under the direct supervision of a lead instructor for the EMT-B course for which the lead instructor;
1. Is a Kentucky-certified EMT-B instructor who has been certified for at least three (3) years; and
2. Has taught at least two (2) complete EMT-B training courses prior to serving as an EMT-B instructor candidate supervising instructor; and
(d) While under the direction of the supervising lead instructor, assumed total classroom responsibility on separate topics within the same EMT-B course for a minimum of ten (10) complete classroom lessons consisting of at least:
1. Five (5) lectures; and
2. Five (5) skill instruction sessions.
(2) The ten (10) lesson student teaching component described in subsection (1)(d) of this section shall be evaluated as an eligibility requirement for certification by an EMT-B instructor internship evaluation committee in accordance with the review process requirements of the 1999 EMT-B Instructor Candidate Evaluation Manual incorporated by reference.
(3) An EMT-B instructor teaching internship and evaluation committee shall:
(a) Consist of three (3) members as specified in the 1999 EMT-B Instructor Candidate Evaluation Manual incorporated by reference; and
(b) Be authorized to terminate the evaluation process:
1. At any point for a reason established by the cabinet-approved EMS educational institution; and
2. Providing written notice to the instructor candidate including supporting documentation regarding the reason for termination.
(4) An EMS educational institution shall be responsible for the costs associated with the preparation and evaluation of an accepted EMT-B instructor candidate.
(5) An EMS educational institution may charge an EMT-B instructor candidate an evaluation fee.
(6) A person who was notified in writing by the cabinet when the last EMT-B instructor candidate evaluation was conducted in 1996, and between 1996 and the effective date of this administrative regulation, that he has been placed on a waiting list for EMT-B instructor candidate evaluation may be exempt from the requirements of Sections 1(1), (3), and (4) and 2(1)(a) of this administrative regulation if he provides to the cabinet documentation that he:
(a) Has completed an EMT-B transition course (TC) pursuant to 902 KAR 13:050, Section 7; and
(b) Has completed a cabinet-approved MOI educational course such as:
1. Cabinet-sponsored EMT-B instructor MOI taught by an EMT-B instructor trainer;
2. Level II fire service instructor or
3. Cabinet-approved instructor course as established in Section 2(2)(c) of this administrative regulation; or
(c) Holds:
1. Bachelor's degree in education;
2. A valid Kentucky teaching certificate.
(7) A person, who is notified in writing by the cabinet that he has met the requirements of subsection (6) of this section, may:
(a) Apply to a cabinet-approved EMS educational institution for acceptance into an EMT-B instructor candidate teaching internship and evaluation program;
(b) May have two (2) years from the effective date of this administrative regulation to apply to the cabinet and be evaluated through a cabinet-approved evaluation program according to previous regulatory requirements in which the EMT-B instructor candidate has;
1. Been evaluated by a panel of EMT-instructor trainers;
2. Received an evaluation score of no less than an absolute eighty (80) percent;
3. Attended a later scheduled annual training session for EMT-B instructor candidates who successfully met the requirements of this subsection; and
4. Completed an application for EMT-B instructor certification, accompanied by the fee required in 902 KAR 13:030; or
5. If unsuccessful following a maximum of one (1) retest, applies as a new candidate who is required to meet the requirements referenced in subsection (1)(a) of this section.
(8) If an EMT-B instructor candidate fails the evaluation process he may, within two (2) years of the course completion date of the MOI course as required in Section 2(2)(a) of this administrative regulation, repeat the teaching internship and evaluation until he successfully passes.
If an EMT-B instructor candidate does not successfully pass the teaching internship and evaluation within two (2) years of the MOI course completion date, he shall repeat the entire EMT-B instructor training course before he may be reevaluated.
(10) If a person who meets the requirements of subsection (6) and (7) of this section fails as an EMT-B instructor candidate to pass the evaluation process he may, within two (2) years from the effective date of this administrative regulation, repeat the teaching internship and evaluation until he successfully passes.
(11) If a person who meets the requirements of subsection (6) and (7) of this section fails to successfully pass the teaching internship and evaluation within two (2) years from the effective date of this administrative regulation, he shall:
(a) Apply as a new EMT-B instructor candidate;
(b) Meet the requirements of Sections 1 and 2 of this administrative regulation; and
(c) Repeat the entire EMT-B instructor training course before he may be reevaluated.
(12) At the conclusion of the evaluation, the lead instructor shall submit verification of attendance and performance evaluations to the cabinet for each EMT-B instructor candidate in accordance with the EMT-B Instructor Candidate Evaluation Manual specifications.

Section 4. EMT-B Instructor Certification. A person shall be eligible for initial certification as an EMT-B instructor if he:
(1) Meets the requirements of Sections 1, 2, and 3(1), (2), (6) and (7) of this administrative regulation;
Section 7. Expiration of EMT-B Instructor Certification. (1) Unless it is renewed:

(a) The certification period of an EMT-B instructor who does not hold current registration with the National Registry of Emergency Medical Technicians as a NREMT-B or NREMT-paramedic shall expire two (2) years from the initial certification date and shall follow the same pattern for each certification renewal period thereafter;

(b) The certification period for an EMT-B instructor who is also registered as a NREMT-B or NREMT-paramedic shall expire three (3) months after the expiration of his initial NREMT registration and shall follow the same pattern for each certification renewal period thereafter;


(3) If the certification has expired for a KY EMT-B instructor initially certified prior to the effective date of this administrative regulation, and he is a Kentucky-certified non-NREMT-B or non-NREMT-paramedic, whose EMT-B instructor certification expiration date was less than two (2) years prior to the effective date of these administrative regulations, he may again be eligible for certification, if within two (2) years from the effective date of this administrative regulation, he:

(a) Completes the requirements referenced in 902 KAR 13:050, Section 3(3)(a) and (b) in order to document current credentials as a:

1. NREMT-B; or
2. NREMT-paramedic; and
(b) Completes the requirements established in Section 5(1) of this administrative regulation; or

(c) Relaxes all requirements established in Sections 1 through 4 of this administrative regulation.

(4) If the certification has expired for a KY EMT-B instructor initially certified prior to the effective date of this administrative regulation and he is additionally a Kentucky-certified, NREMT-B or NREMT-paramedic, he may again be eligible for certification if, within two (2) years from his EMT-B instructor certification expiration date, he:

(a) Completes the requirements referenced in Section 5(1) of this administrative regulation; or

(b) If a Kentucky-certified non-NREMT-B or NREMT-paramedic,
complete the requirements established in subsection (3)(a) and (b) of this section; or
(c) Relates all requirements established in Sections 1 through 4 of this administrative regulation.

Section 8. EMT-B Instructor Trainer. (1) An EMT-B instructor shall be eligible for appointment as an EMT instructor for a period of two (2) years if he:
(a) Has current registration with the NREMT as a:
1. NREMT-B; or
2. NREMT-Paramedic;
(b) Is currently a Kentucky-certified EMT-B or paramedic;
(c) Provides documented proof of five (5) years experience in the delivery of prehospital patient care or transportation as a part of an organized emergency medical services system;
(d) Has been certified in Kentucky as an EMT-B instructor for five (5) consecutive years;
(e) Has served as the lead instructor for at least five (5) complete EMT-B courses;
(f) Files, with the cabinet, a letter of request for appointment;
(g) Does not have an active pending investigation by the cabinet relating to his EMT certification; and
(h) Has not had a negative action relating to his EMT certification within the past five (5) years.
(2) A person who was certified as an EMT-instructor trainer prior to the effective date of this administrative regulation shall not be required to meet the requirements of subsection (1)(a) - (e) of this section for initial appointment as an EMT-instructor trainer.
(3) A person who was certified as an EMT-instructor trainer prior to the effective date of this administrative regulation shall meet the requirements of subsection (4) of this section for reappointment as an EMT-instructor trainer.
(a) A person shall be eligible for reappointment as an EMT-B instructor trainer if he:
1. Is currently certified in Kentucky as an EMT-B;
2. Is currently certified in Kentucky as an EMT-B instructor;
3. Documents annual attendance at no less than that one (1):
   (1) Kentucky EMS Council Training Committee; and
   (2) Kentucky EMS Council meetings;
4. Documents attendance and participation at one (1) conference at which continuing education hours for an EMT-B instructor or EMT-FR instructor is offered; and
5. Is recommended for reappointment by the cabinet.
(4) An EMT-B instructor trainer shall function at the request and direction of the cabinet.
(5) An EMT-B instructor trainer may serve as:
(a) An instructor liaison to assist an EMS educational institution leading the training program to which the instructor will be assigned during a training program;
(b) A representative of the cabinet who may monitor or evaluate:
   1. An EMT-B or EMT-FR training program;
   2. EMS educational institutions;
   3. Faculty performance in an EMT-B or EMT-FR training program;
(c) An examination representative as established in 902 KAR 13:160, Section 4 for a Kentucky EMT-B or NREMT-FR practical skills certification examination;
(d) A member of an EMT-B instructor teaching internship and evaluation committee as required in Section 3(3) of this administrative regulation;
(e) A liaison to an EMS regional advisor who may:
   1. Assist in an investigation relating to an EMT-B training program;
   2. Provide information and assistance to cabinet staff relating to an EMT-B training issue; and
   3. A continuing education instructor at a time or location approved by the cabinet such as at an instructor conference.
(7) An EMT-B instructor trainer may be utilized to:
(a) Provide advice and direction to the cabinet through the Kentucky EMS Advisory Council on an issue relating to the development and implementation of a standard relating to the EMT-B and EMT-B instructor training processes; and
(b) Assume other responsibilities as requested by the cabinet.
(8) An EMT-B instructor trainer shall have the authority to act as a representative of the cabinet for the purposes to which they are assigned and as such shall have all rights as would normally be afforded a cabinet representative.
(9) An action recommended by an EMT-B instructor trainer shall be reviewed for approval by the cabinet.
(10) An EMT-B instructor trainer shall be eligible for travel reimbursement for an assignment made by the cabinet.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) The United States Department of Transportation, National Highway Traffic Administration, 1994 National Standard Curriculum, EMT Instructor Training Program, Method of Instruction;
(b) The 1999 EMT-B Instructor Candidate Evaluation Manual (7/99);
(c) The Application for EMT-B Instructor Initial Certification (7/99);
(d) The Application for EMT-B Instructor Recertification (7/99);
(e) The Emergency Medical Technician Basic Instructor Official Form for Documentation of Contact Hour Records for Certification Renewal (4/00).
(2) This material may be inspected, copied, or obtained at the Department for Public Health, Division of Adult and Child Health, EMS Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. [Emergency Medical Technician instructor. A person shall be certified as an EMT-instructor if he has:
1. Been certified as an EMT by the cabinet;
2. Assisted a Kentucky EMT-B instructor for a minimum of one (1) complete EMT-B basic training course in which he:
   (a) Participated in the conduct of each lesson;
   (b) Conducted, under supervision of the course lead EMT-instructor, at least one (1) complete lesson during the course;
   (c) Served as a small group assistant to the course lead EMT-instructor during practical skill exercises;
   (d) Conducted class demonstrations of manipulative skills;
   (e) Performed other related duties as directed by the course lead EMT-instructor;
3. Was recommended for final evaluation, in writing, to the cabinet, by the lead EMT-instructor whom the candidate assisted in teaching the complete EMT-B basic training course; and
4. Assisted throughout an EMT-B course that was completed no more than one (1) year prior to the date of the written recommendation submitted by the EMT-instructor;
5. Been evaluated by a panel of EMT-instructor-trainers;
6. Received an evaluation score of no less than an absolute eighty (80) percent;
7. Attended a later scheduled annual training session for EMT-instructor candidates who have successfully completed the requirements outlined in subsections (1) through (4) of this section; and
8. Completed an application for EMT-instructor certification.
(a) If an EMT-B instructor candidate fails to score at least eighty (80) percent on his initial evaluation, he shall be given another opportunity, upon application, to be reevaluated;
(b) An EMT-B instructor candidate who fails to score at least eighty (80) percent on the second attempt shall, upon application, be given another opportunity to be reevaluated if he:
   (a) Drops out for a year, or one (1) evaluation course, if more than one (1) is held in a given year;
   (b) Reapplies by having a current recommendation for evaluation submitted in writing by the lead EMT-instructor for whom the EMT-instructor candidate has assisted throughout an entire EMT-B basic course;
   (c) Assisted throughout an EMT-B basic course that was completed no more than two (2) years previous to the date of the updated written recommendation submitted by the lead EMT-instructor;
   (d) A candidate who is not successful on two (2) attempts, but reapplies after meeting the requirements of subsection (2)(a), (b), and (c) of this section shall be allowed two (2) additional attempts to successfully complete the EMT-B instructor evaluation course.

Section 9. Certification of EMT-B Instructor Trainer. A person shall not be certified as an EMT-B instructor-trainer unless he has:
(1) Complied with all requirements of Section 1 of this administrative regulation; and
(2) Been evaluated by the Kentucky EMS Council and recom-
VOLUME 27, NUMBER 2 - AUGUST 1, 2000

Section 4. Renewal of EMT-instructor Certification. (1) If the certification of an EMT-instructor is not renewed, it shall become invalid two (2) years from the date of issue; in order to obtain renewal, the EMT-instructor shall meet all requirements of 902 KAR 13:050, Section 8:

(2) A Kentucky EMT-instructor who was certified before the effective date of this administrative regulation shall have completed a 1995 Kentucky EMT-Instructor Roll-Out Training Program on the 1994 National Standard Curriculum (NSC) EMT-Basic. A Kentucky certified EMT-instructor who has not completed a 1995 Kentucky EMT-instructor Roll-Out Training Program on the 1994 NSC-EMT-Basic shall not:

(a) Teach an EMT-basic course;
(b) Teach an EMT-continuing education class;
(c) Serve as an EMT certification practical skills advisor;
(d) Serve as an EMT certification practical skills advisor; or
(e) Serve as a lead instructor or assistant to the lead instructor;
(f) Evaluate the accompanying practical skills examination for an EMT-continuing education course as outlined in 902 KAR 13:050, Section 12; or
(g) Be eligible for renewal of the EMT-instructor certification.

(3) After the last scheduled Kentucky EMT-Instructor Roll-Out Training Program, a candidate accepted for evaluation shall not be eligible for EMT certification unless he has:

(a) Successfully completed a Kentucky EMT-continuing education course as outlined in 902 KAR 13:050, Section 12; and
(b) Completed the requirements of Sections 1 and 2 of this administrative regulation.

The conference referenced in Section 4(3) of this administrative regulation shall include the methods of instruction related to the 1994 NSC-

(4) Effective January 1, 1997, future candidates eligible for evaluation shall:
(a) Meet the requirements in Section 4(1) of this administrative regulation by participating in an EMT-basic course conducted according to the 1994 NSC-
(b) Complete the requirements in subsection (3)(a) of this section,

(5) An instructor who obtained Kentucky EMT-Instructor certification under the purpose of certification is not eligible for renewal due to the conditions outlined in subsection (2)(a) of this section, may regain certification status if:

(a) He repeats the requirements of Section 1 and 2 of this administrative regulation; and
(b) The EMT course in which he assisted was in accordance with the 1994 NSC EMT Basic.

(6) A Kentucky EMT-instructor who is denied renewal of his certification for not meeting the requirements in subsection (2)(a) of this section, may request an administrative hearing in accordance with the guidelines specified in 902 KAR 13:050, Section 5.

Section 5. Instructors Certified in Other States. A person who is certified in another state as an EMT-instructor and who wishes to become certified in Kentucky as an EMT-instructor shall:

(1) Comply with the challenge examination procedures outlined in 902 KAR 13:050, Section 10; and
(2) Comply with the requirements of Sections 1 and 2 of this administrative regulation.

RICE C. LEACH, M.D., Commissioner
JOHN WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: May 12, 2000
FILED WITH LRC: May 12, 2000 at 4 p.m.

CABINET FOR HEALTH SERVICES
Department for Public Health Division of Adult and Child Health (As Amended at ARRS, July 11, 2000)


RELATES TO: KRS 211.960 to 211.988, 211.990(5)
STATUTORY AUTHORITY: KRS [Chapter—138.] 194A.030.

194A.050, 211.984, 211.992
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.984 directs the Cabinet for Health Services to promulgate [adopt] administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation establishes [to establish] grounds and establishes procedures for taking disciplinary action against an applicant for certification or a certified EMT [emergency medical technician (EMT)] or an EMT first responder—EMT first responder instructor, EMT instructor, or EMT instructor trainer. Executive Order 95-082, effective July 2, 1995, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.

Section 1. Denial, Revocation, Suspension, Probation, and Restriction of Certificates. The cabinet may deny, revoke, suspend, probate or restrict the certificate of a person who:
(1) Has engaged in dishonest, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;
(2) Uses or controls substances to the extent it affects [may affect] his ability to perform the duties of an EMT, or becomes a drug dependent person or drug abuser [as defined in KRS 222.041(6)];
(3) Uses alcohol to the extent that it affects [may affect] his ability to perform the duties of an EMT or becomes an alcoholic person who suffers from alcoholism [as defined in KRS 222.041(9)];
(4) Has or develops a physical or mental disability or other condition that continued practice or performance of his duties is [may be] dangerous to patients or the public;
(5) Fails to:
(a) Follow the appropriate standards of care or established patient care protocols in the management of a patient;
(b) Administer medicine or treatment in a responsible manner in accordance with:
1. His level of certification;
2. The legal order [Orders] of a physician who is the medical director of the EMT; or
3. Locally approved medical protocols; or
4. The legal order of a physician who is not the medical director of the EMT if the physician:
(a) Is physically present with the patient;
(b) Can be identified as a licensed physician in the United States of America;
(c) Agrees to assume responsibility for the patient; and
(d) Agrees to accompany the patient to the receiving medical facility;
(c) [Maintain patient confidentiality;]
(d) Meet the applicable requirements for certification or recertification pursuant to:
1. 902 KAR 13:050 for an EMT-B: [: EM'T-instructor or EMT-instructor trainer;]
2. 902 KAR 13:110 for an EMT first responder or EMT first responder instructor; or
3. [e] Meet the requirements for an applicant for certification pursuant to 902 KAR 13:080;
(f) Meet the requirements for an EMT-instructor or EMT-instructor trainer pursuant to 902 KAR 13:070 for an EMT-B instructor;
(g) Unlawfully breaches patient confidentiality;
(2) [f] Reproduces or reconstructs, or attempts to reproduce or reconstruct, a portion of a training or certification [an emergency medical technician (EMT)] examination for the purpose of assisting another to cheat on the examination or;
(8) [g] Distributes information for purposes of reproduction or reconstruction of a portion of a training or certification [an emergency medical technician (EMT)] examination in order to assist another to cheat on the examination;
(9) [f] Cheats, or assists another to cheat, on an examination for certification or recertification [an emergency medical technician (EMT)] examination in order to assist another to cheat on the examination;
(10) [i] Does not meet the qualifications, minimum requirements, special requirements, and basic competency areas established [defined] in the;
(a) "Emergency Medical Technician (EMT) Basic Functional Position Description;"
or
(b) The "Emergency Medical Technician First Responder Functional Position Description;" or
(c) [Maintain patient confidentiality;]
(d) Meet the applicable requirements for certification or recertification pursuant to:
1. 902 KAR 13:050 for an EMT-B:
2. 902 KAR 13:110 for an EMT first responder or EMT first responder instructor;
3. [e] Meet the requirements for an applicant for certification pursuant to 902 KAR 13:080; or
(f) Meet the requirements for an EMT-instructor or EMT-instructor trainer pursuant to 902 KAR 13:070 for an EMT-B instructor;
(g) Unlawfully breaches patient confidentiality;
(2) [f] Reproduces or reconstructs, or attempts to reproduce or reconstruct, a portion of a training or certification [an emergency medical technician (EMT)] examination for the purpose of assisting another to cheat on the examination; or;
(8) [g] Distributes information for purposes of reproduction or reconstruction of a portion of a training or certification [an emergency medical technician (EMT)] examination in order to assist another to cheat on the examination; or
(9) [f] Cheats, or assists another to cheat, on an examination for certification or recertification [an emergency medical technician (EMT)] examination in order to assist another to cheat on the examination; or
(10) [i] Does not meet the qualifications, minimum requirements, special requirements, and basic competency areas established [defined] in the;
(a) "Emergency Medical Technician (EMT) Basic Functional Position Description;" or
(b) The "Emergency Medical Technician First Responder Functional Position Description;" or
(c) [Maintain patient confidentiality;]
(11) [(9)] Issues a check for a certificate or is certified as a result of a check being issued on an invalid account or an account which does not have sufficient funds to pay the fee for the certificate required by 902 KAR 13:030;

(12) [(4)] Discriminates in the provision of services on the basis of race, sex, age, religion, color, creed, or national origin;

(13) [(4)] Practices outside or beyond the scope of his level of certification, or represents he is qualified at a level other than his current certification;

(14) [(8)] Takes or possesses, without authorization, for personal use or gain, medicines, supplies, equipment, or personal items of a patient;

(15) [(9)] Materially alters a certificate, or uses or possesses an altered certificate;

(16) [(4)] Obtains or attempts to obtain a certificate by fraud, forgery, deception, misrepresentation, or subterfuge; or assists another to obtain a certificate by fraud, forgery, deception, misrepresentation, or subterfuge;

(17) [(4)] Falsifies an application for certification or recertification;

(18) [(4)] Falsifies a patient record;

(19) [(4)] Has had an EMT, paramedic [EMT-first responder, EMT-first responder instructor, EMT- instructor, EMT-instructor trainee], or equivalent certificate denied, suspended, revoked, or restricted in another state while holding a Kentucky certificate;

(20) [(6)] Uses or attempts to use his certificate to obtain or attempt to obtain a [any] benefit to which he is not entitled due to duress, coercion, fraud, or misrepresentation;

(21) [(9)] Is not at least eighteen (18) years of age when applying at the time of application for certification;

(22) [(9)] Has been convicted of a felony or misdemeanor described in KRS 335B.010(4); or

(23) [(9)] Has been convicted of another relevant crime as established in Section 2 of this administrative regulation which is [are] crimes directly related to the ability of a person to perform the duties of an EMT.

Section 2. Relevant Crimes. In determining if a crime directly relates to the ability of a person to perform the duties of an EMT, the cabinet shall apply the test established in KRS 335B.020(2) to the following crimes:

1. Offenses under KRS Chapter 189 (traffic regulations punishable by fine or imprisonment or both); and

2. Offenses under KRS Chapter 189A (driving under the influence); and

3. Offenses under:
   (a) KRS Chapter 218A (controlled substances);
   (b) KRS Chapter 507 (criminal homicide);
   (c) KRS Chapter 508 (assault and related offenses);
   (d) KRS Chapter 509 (kidnapping and related offenses);
   (e) KRS Chapter 510 (sexual offenses);
   (f) KRS Chapter 511 (burglary and related offenses);
   (g) KRS Chapter 512 (criminal damage to property);
   (h) KRS Chapter 513 (aras and related offenses);
   (i) KRS Chapter 514 (theft and related offenses);
   (j) KRS Chapter 515 (burglary and related offenses);
   (k) KRS Chapter 516 (nuisance and confitance);
   (l) KRS Chapter 520 (offenses relating to firearms and weapons);
   (m) KRS Chapter 522 (theft, disorderly conduct and related offenses);
   (n) KRS Chapter 527 (offenses relating to firearms and weapons);
   (o) KRS Chapter 528 (gambling);
   (p) KRS Chapter 529 (prostitution offenses); and
   (q) KRS Chapter 568 (inchoate offenses).

Section 3. Presumptive Denial of Certification for Conviction of a Relevant Crime. Convictions for the following crimes shall be grounds for presumptive denial or revocation of an EMT certification:

1. Capital offenses;

2. Class A, Class B, and Class C felonies;

3. Class D felonies, if the conviction occurred within the last five (5) years;

4. Crimes involving sexual misconduct including forcible rape;

5. Sexual or physical abuse of:
   (a) Children;
   (b) The elderly; or
   (c) The infirm;

6. Child pornography;

7. Traffic offenses defined as:
   (a) Three (3) or more convictions for driving under the influence (DUI) within the last five (5) years; or
   (b) A DUI conviction or more than two (2) separate moving violations incurred while operating an emergency vehicle;

8. Assault on an elderly or infirm person;

9. Crime in which the victim is a patient or otherwise under the care and protection of the EMT or applicant including:
   (a) Abuse;
   (b) Theft; or
   (c) Financial exploitation;

10. Crimes involving the use of alcohol or illegal drugs, while on duty as an EMT;

11. Traffic offenses defined as:
   (a) Two (2) or more convictions for driving under the influence (DUI) within the last five (5) years; or
   (b) A DUI conviction or more than two (2) separate moving violations incurred while operating an emergency vehicle;

12. Four (4) or more misdemeanors convictions within the last five (5) years.

Section 4. Restricted Certification for Conviction of a Relevant Crime. A person convicted of a relevant crime may be eligible for a restricted EMT certificate with a particular employer or a particular type of employment if:

1. He has not been convicted of a Class D felony within five (5) years prior to the request for certification;

2. He has not been convicted another felony;

3. He has:
   (a) Completed the terms of his sentencing; or
   (b) Is on unsupervised probation;

4. The crime does not fall under the conditions for presumptive denial or revocation established in Section 3 of this administrative regulation;

5. He has not been convicted of traffic offenses defined as:
   (a) Two (2) convictions for driving under the influence (DUI) within the last five (5) years; or
   (b) A moving violation incurred while operating an emergency vehicle;

6. He has not been convicted of more than three (3) misdemeanors within the last five (5) years.

Section 5. Probationary Certification for Conviction of a Relevant Crime. A person convicted of a relevant crime may be eligible for a probationary EMT certificate if:

1. The crime does not fall under the conditions for presumptive denial or revocation established in Section 3 of this administrative regulation;

2. The crime does not meet the conditions for a restricted certificate established in Section 4 of this administrative regulation;

3. He has not been convicted of traffic offenses defined as one (1) conviction for driving under the influence (DUI) within the last five (5) years; or

4. He has not been convicted of more than two (2) misdemeanors within the last three (3) years.

Section 6. Persons Certified While Incarcerated. [1] (Restricted Certificates) The cabinet may issue a restricted [restricted the] certificate to [a] a person who is certified or obtains certification as an EMT-B, or EMT first responder while incarcerated in a prison, correctional facility, reformatory, or jail to function as an EMT-B, or EMT first responder only within the scope of an ambulance service operated by that facility during the period of his incarceration.

2. If a restricted certificate is issued to a person who is incarcerated in a prison, correctional facility, reformatory, or jail, the certificate shall automatically expire upon release of the person from incarceration.

Section 7. [9] Cease and Desist Order. If the cabinet has reason-

able cause to believe that a person may cause harm or create an
imminent danger to the public if his certificate is not denied, suspended, revoked, probated or restricted, the cabinet may issue an order directing a person to immediately cease and desist functioning as an EMT-B, EMT first responder, EMT first responder instructor, or EMT-B instructor, or EMT-instructor trainer if the cabinet has reasonable cause to believe that the person may cause harm or create an imminent danger to the public if his certificate is not denied, suspended, revoked, or restricted.

Section 8, [4] Notice Procedures. (1) The cabinet shall notify a person by certified mail sent to his last known address of record of an action to deny, revoke, suspend, or restrict his certificate, and of his right to request a hearing.

(2) The written notice of the cabinet shall comply with KRS 13B.050.

(3) Failure of an EMT to notify the cabinet of a change of address or to accept or claim the certified notice at his last known address of record shall not:

(a) Delay or negate the disciplinary action;
(b) Change the effective date of the action; or
(c) Suspend, alter, or negate the time period allowed to respond to the action or request a hearing.

(4) The written notice shall state the substance of each offense charged with sufficient detail to reasonably apprise him of the nature, time, and place of the violation.

Section 9, [5] Hearings. (1) An administrative hearing [Administrative hearings] shall be conducted in accordance with 902 KAR 1:400.

(2) The hearing shall be conducted by a hearing officer appointed by the cabinet in accordance with 902 KAR 1:400.

(3) If an applicant or certificate holder does not request a hearing within twenty (20) days of the written notice of intended action, the action shall be final.

(4) If a person receives a certificate and his check for the certification fee is later returned unpaid due to an invalid account or insufficient funds, the certificate shall be automatically suspended until:

(a) The fee is paid in full by cash, certified check, or money order; or
(b) The person requests a hearing on the suspension.

Section 10, Disclosure and Publication of Disciplinary Actions. (1) The cabinet may disclose to the public and publish in the EMS newsletter, or similar publication:

(a) The name of a person whose certificate has been denied, suspended, revoked, or restricted and the time period involved;
(b) The administrative regulation violated; and
(c) The nature of the violation.

(2) If a person is employed as an EMT-B, EMT first responder, EMT first responder instructor, EMT instructor, or EMT instructor trainer at the time when a final decision is made by the cabinet to deny, suspend, revoke, or restrict a certificate, the cabinet may notify the employer of record of the action taken.

(3) If a person fails to abide by a decision of the cabinet to deny, suspend, revoke, or restrict his certificate, the person shall be in violation of KRS 211.962 and may be charged with a Class A misdemeanor under KRS 211.990(5).

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The "Emergency Medical Technician-Basic Functional Position Description", April, 1993; and

(2) This material may be inspected, copied, or obtained from the Office of the Commissioner 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 WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: May 12, 2000
FILED WITH LRC: May 12, 2000 at 4 p.m.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at ARRS, July 11, 2000)


RELATES TO: KRS 211.960 to 211.968, 211.990(5)
STATUTORY AUTHORITY: KRS 194A.030, 211.964
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.964 requires [directs] the Cabinet for Health Services to promulgate [Human Resources to adopt rules and] administrative regulations relating to emergency medical technicians (EMTs). [The function of] This administrative regulation establishes the [to establish] a new classification of emergency medical technician, the emergency medical technician-first responder (EMT-FR), and to establish requirements for emergency medical technician first responder (EMT-FR) and EMT-FR instructor training, examinations, and certifications.

Section 1. Training Course Requirements. (1) The emergency medical technician-first responder training course shall:

(a) Be conducted by a cabinet-approved emergency medical services (EMS) educational institution that meets the requirements of KRS 902 KAR 13:160;
(b) Not commence until the sponsoring agency has been certified by the cabinet as an EMS educational institution;
(c) Be a minimum of forty-seven and one-half (47 1/2) hours in duration;
(d) Follow the United States (U.S.) Department of Transportation, (DOT), National Highway Traffic Safety Administration, 1995 EMT First Responder-National Standard Curriculum (1995 EMT-FR NSC); and
(e) Include training in:
   1. Acquired Immune Deficiency Syndrome (AIDS) as required by KRS 214.610;
   2. Proper use of automated external defibrillators (AEDs);
   3. Proper use of oxygen therapy delivery devices including bag-valve-mask;
   4. Proper use of a cervical collar and long spine board immobilization;
   5. Proper use of the sphygmomanometer and stethoscope for obtaining blood pressure; and
   6. Cardiopulmonary resuscitation (CPR) that meets the educational objectives of:
      a. The American Heart Association;
      b. The American National Red Cross; or

(2) The CPR course shall:

(a) Be taught by a person who is:
   1. An American Heart Association CPR instructor;
   2. An American National Red Cross CPR instructor;
   3. A National Safety Council CPR instructor;
   4. An EMT-B instructor; or
   5. An EMT-FR instructor; and
(b) Include instruction and testing in:
   1. One (1) rescuer CPR;
   2. Two (2) rescuer CPR;
   3. Techniques of changing one (1) rescuer to two (2) rescuers during the performance of CPR;
   4. Techniques of changing rescuer during the performance of two (2) rescuer CPR;
   5. Techniques for relief of obstruction of the airway;
   6. CPR for infants and small children; and

(b) A copy of these publications is incorporated by reference. They shall be on file in the office of the Emergency Medical Services
Branch, Department for Health Services, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40601, and shall be available for public inspection and copying Monday through Friday from 9 a.m. until 4:30 p.m.;
(2) Be at least forty (40) hours in duration;
(3) Utilize equipment, texts, and other materials approved by the cabinet;
(4) Not begin until all equipment, texts, and other materials specified are available, in proper quantities, in proper working condition, and placed in secure storage;
(5) Share equipment or between courses if it is available equally to all EMT first-responder classes;
(6) Be taught by an instructor approved by the cabinet pursuant to Section 2 of this administrative regulation;
(7) Have one (1) assistant instructor for every ten (10) students during a practice session;
(8) A certified emergency medical technician or paramedic may be used as an assistant for practice sessions;
(9) Have a class certification number assigned by the cabinet;
(10) Be limited to a maximum of thirty (30) students;
(11) Permit more than one (1) lesson absence per student if the absence is made up;
(a) With the approval of the instructor; or
(b) In a subsequent EMT first-responder course;
(12) Require each student to sign-in for each lesson on attendance sheets provided by the cabinet; and
(13) Require the instructor at the end of each course, to provide the cabinet with the:
(a) Final Course Records Form;
(b) Answer Sheet;
(c) Final Practical Exam;
(d) Application for Certification;
(e) The fees prescribed by 902 KAR 13:039; Section 1(9);
(f) Two (2) Master Student Attendance Sheets; and
(g) Attendance sheets for each lesson;
(13) The following forms are incorporated by reference:
1. Final Course Records Form (11/67);
2. Kentucky First Responder Examination Answer Sheet (86-89);
3. Application for Certification (7/93);
4. Master Student Attendance Sheet (11/67); and
5. Attendance Sheet (11/67);
(b) They may be inspected, copied or obtained from the Emergency Medical Services Branch, Department for Health Services, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40601, 6 a.m. through 4:30 p.m. Monday through Friday;

Section 2. EMT First Responder Instructors. [(4) A person shall be eligible for certification as an EMT-FR instructor [not hold himself out as an EMT first-responder instructor] if he:
(1) Submits to the cabinet:
(a) An application for EMT-FR instructor certification; and
(b) Pays the fee as required in 902 KAR 13:030; and
(2) Is a Kentucky-certified;
(a) EMT-FR trained in the 1996 EMT-FR NESC;
(b) EMT-B trained in the 1994 EMT-B National Standard Curriculum; or
(c) EMT-paramedic trained in the 1994 EMT-B National Standard Curriculum;
(3) Meets the requirements of Section 1(1)(d) of this administrative regulation;
(4) Has completed a cabinet-approved basic instructional methodology course that consists of a minimum of sixteen (16) contact hours that shall include:
(a) Adult learning techniques;
(b) Use of audio visuals;
(c) Small group dynamics; and
(d) Evaluation techniques;
(5) Provides documentation that he has had at least two (2) years experience teaching or providing emergency medical services;
(6) Has completed Instructor orientation on the 1995 EMT-FR NESC;
(7) Has completed a cabinet-approved HIV and AIDS Train the Trainer Course; and
(8) Is not subject to disciplinary action pursuant to 902 KAR 13:030;
(a) Which is not an EMT-instructor certified by the cabinet; or
(b) Has not been approved by the cabinet to teach the EMT-first responder course;
(2) Upon submission of appropriate documentation to the cabinet, the following shall be eligible for approval:
(a) An individual certified by the:
1. Kentucky Law Enforcement council to teach the first responder course; and
2. Cabinet as an EMT or EMT first responder;
(b) An individual certified by the:
1. Commission on Fire Protection Personnel Standards and Education as a fire protection instructor; and
2. Cabinet as an EMT or EMT first responder;
(c) A physician, registered nurse, paramedic, or emergency medical technician who has:
1. Completed a basic instructional methodology course approved by the cabinet and
2. Experience, or is active in teaching or providing emergency medical services]

Section 3. Requirements for Applicants for Initial Kentucky EMT-FR Certification. An [Each] applicant for initial EMT-FR certification shall be eligible for certification if he:
(1) Submits to the cabinet a signed Kentucky Application for EMT First Responder Certification;
(2) Provides evidence of current registration as an EMT-FR by the National Registry of Emergency Medical Technicians (NREMT);
(3) Meets the Acquired Immune Deficiency Syndrome (AIDS) education requirements of KRS 214.010;
(4) Pays the fees as required in 902 KAR 13:030; and
(5) Is not subject to disciplinary action pursuant to 902 KAR 13:030.;
(6) A person applying for certification or recertification pursuant to 902 KAR 13:090 [13:769]. Section 6, shall not be required to hold current registration through the NREMT but shall provide evidence that they have received a passing score on a [the] written examination and practical skills examination required for NREMT registration; i
(a) Be eighteen (18) years of age or older;
(b) Not be habitually addicted to or an abuser of alcoholic beverages, drugs, or controlled substances; and
(3) Understand and be able to read, speak, and write the English language;

Section 4. EMT First Responder Certification Examination. (1) The cabinet shall prescribe the format and content of the EMT-FR [EMT-FR] certification examination, which shall include, the practical and written testing requirements of the NREMT-FR Examination Coordinators Manual.
(2) A person shall not evaluate or proctor an EMT-FR certification examination if he:
(a) Served as lead instructor or assistant instructor for the student;
(b) Supervises or is supervised by the applicant for certification;
(c) Is a family member of the applicant; or
(d) Has a conflict of interest that could potentially bias the evaluator or proctor toward or against the student in the performance of his duties;
(3) An EMT-FR student who does not become Kentucky-certified within two (2) years after the EMT-FR course completion date shall repeat the EMT-FR course before he may become certified;
(4) The EMS educational institution or EMS testing agency shall:
(a) Secure skill examination evaluators who shall meet requirements of 902 KAR 13:160, Section 4(3);
(b) Verify the eligibility of the student to test or initially retest for the Kentucky EMT-FR certification skills examination. Eligibility for subsequent testing or retesting shall be verified in conjunction with the EMS Branch; consist of two (2) parts:
1. Written:
(a) A passing grade of seventy-five (75) percent shall be required;
(b) If an applicant's grade average is seventy-five (75) percent or more, the applicant may, upon proper application, retake the written examination;
(c) If the applicant fails again, he shall be required to retake the
entire EMT first responder course before being eligible for reexamination.

(2) Practical:
(a) The applicant shall pass all parts of the final practical examination;
(b) If he fails to pass all portions of the final practical examination, he shall be permitted one (1) opportunity to retake the part which he failed to pass;
(c) If the applicant fails again to pass that particular part of the examination, he shall be required to retake the entire EMT first responder training course before being eligible for reexamination;
(d) Examiners:
(C) Examining for EMT first responder course practical examinations shall be:
1. EMT instructors certified by the cabinet;
2. EMT first responder instructors approved by the cabinet pursuant to Section 2 of this administrative regulation;
(b) An instructor who is employed by the organization for whom the EMT first responder course is conducted shall not be used as an examiner in the practical examination of that course.

Section 5. Expiration of Certification. (1) An EMT first responder (EMT-FR) certificate shall expire two (2) [three (3)] years from the date of issuance. (2) Upon expiration of his certification, an EMT-FR shall not perform a procedure authorized for a certified EMT-FR pursuant to Section 9 of this administrative regulation, unless he is certified to do so under other credentials. (3) If the certification of an EMT-FR expires, he may obtain EMT-FR certification if he:
(a) Successfully repeats the entire EMT-FR training course including the certification examinations; and
(b) Meets the requirements of Section 3 of this administrative regulation. 

Section 6. Renewal of EMT-FR Certification and Continuing Education Requirements. (1) Effective July 1, 2002, an EMT-FR who was initially certified by the cabinet prior to the effective date of this administrative regulation, shall:
(a) Attain continuing education, taught by an EMT-FR instructor or a person who meets [meet] the requirements of 902 KAR 13:060, Section 4(2), prior to the expiration date of his certification that:
1. Meets or exceeds the requirements of the NREMT;
2. Includes at least seventeen (17) contact hours, of which, two (2) shall be in AIDS education as required by KRS 214.610; (b) Provide written evidence to the cabinet of completion of current training in CPR which meets the requirements of Section 1(1)(d)(5) of this administrative regulation;
(c) Submit to the cabinet, prior to the expiration date of his certificate:
1. A signed Application for EMT-FR Certification Renewal; and
2. A record of his continuing education hours on a form that:
(a) Has been signed by the instructor;
(b) Has been signed by the EMT-FR; and
(c) Contains a certification as to the truth of the information supplied;
3. Pays the fees as required in 902 KAR 13:030.
(2) An EMT-FR, who applies for renewal as an EMT-FR, who is initially certified by the cabinet after the effective date of this administrative regulation, shall be eligible for Kentucky EMT-FR certification if he:
(a) Provides documentation that he has during his two (2) year certification period completed a minimum of seventeen (17) contact hours of continuing education that includes:
1. Thirteen (13) hours equivalent to the United States (U.S.) Department of Transportation (DOT) Refresher Course;
2. Two (2) hours of continuing education that meets the AIDS education required by KRS 214.610; (b) Provides documentation that he has met, prior to his certification expiration date, the requirements of certification renewal, including having obtained continuing education hours as required in subsection (1) of this section;
(c) Submits to the cabinet, prior to the expiration date of his certificate:
1. A signed Application for EMT-FR Certification Renewal; and
2. A record of his continuing education hours on a form that:
(a) Has been signed by the instructor;
(b) Has been signed by the EMT-FR; and
(c) Contains a certification as to the truth of the information supplied;
(d) Provides written documentation from a CPR instructor, EMS educational institution instructor or chief administrative officer, or organization training officer verifying completion of the CPR requirements as outlined in Section 1(1)(d)(5) of this administrative regulation;
(e) Is not subject to a disciplinary action identified in 902 KAR 13:090; and
(f) Pays the required fee established in 902 KAR 13:030, Section 1(3)(f).
(3) An EMT-FR shall submit a completed application for recertification postmarked to the cabinet no later than thirty (30) days after the expiration date of the certificate.
(4) If the application for renewal is not postmarked to the cabinet within thirty (30) days of the certification expiration date, the applicant shall not be considered for renewal.
(5) An EMT-FR who is a member of the National Guard or a military reserve unit and who is called to active duty by Presidential Order under 10 USC 121 and 673a, shall, upon written request to the cabinet, be given an extension for a period up to one (1) year after the expiration of the EMT-FR from active duty or return to the United States, whichever occurs first.
(6) An EMT-FR who attends the entire minimum twenty (20) hour EMT-FR transition course (TC) as described in Section 8 of this administrative regulation and does not successfully pass the accompanying practical skills examination may apply the hours earned in the EMT-FR TC hour-for-hour toward the required seventeen (17) continuing education hours described in subsection (1) of this section, except that the hours earned in the TC shall not:
(a) Apply toward the required two (2) hours of AIDS education required by KRS 214.610; or
(b) Apply as credit for update training to the 1995 EMT-FR NSC referenced in Section 11(1)(d) of this administrative regulation.
(7) An EMT-FR who attends the entire minimum twenty (20) hour EMT-FR TC and successfully passes the accompanying practical skills examination, may:
(a) Utilize the hours earned in the TC in accordance with the requirements of subsection (6) of this section; and
(b) Receive credit for completing the required update training to the 1995 EMT-FR NSC, In-service Training or Continuing Education Requirements. (1) Prior to the renewal of an EMT first responder certificate, an EMT first responder shall complete the training or continuing education requirements described in subsection (6) of this section:
(3) During his certification period, he shall:
(a) Complete:
1. Twelve (12) hours of in-service training, or continuing education; or
2. A combination thereof;
(b) Be certified in cardiopulmonary resuscitation (CPR) as required by:
1. American Heart Association; or
2. American National Red Cross; and
(c) Submit evidence of the training and certification required by this subsection to the cabinet not less than thirty (30) days prior to the expiration of his EMT first responder certificate;
(3) An applicant for recertification shall receive credit for completing in-service training or continuing education on a subject:
(a) Taught by the U.S. Department of Transportation EMT first responder curriculum;
(f) For which instruction is authorized by the cabinet;
(4) Each subject or training course claimed shall be countersigned by the instructor of the subject or course:
(5) Training received as a requirement for continuing education in medicine, nursing, paramedic, or as an EMT in a coal mining situation required by KRS 394:1427 shall be eligible for in-service training or continuing education credit if it meets the criteria of subsection (3) of this section.
(6) The EMT first responder shall submit to the cabinet a First Responder Official Record of Continuing Education or in-service record of his in-service training or continuing education on a
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

form:
(b) The form shall be:
(1) Signed by the EMT-first responder;
(2) Contain a certification as to the truth of the information supplied; and
(3) A statement that misrepresentation of the information may be cause for suspension or revocation of a certificate.
(c) "First Responder Official Record of Continuing Education In-service" (9-36-91), is incorporated by reference and may be obtained from the Emergency Medical Services Branch, Department for Health Services, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621, between 8 a.m. and 4:30 p.m., Monday through Friday.
(7) The following shall not be eligible for credit as in-service training or continuing education:
(a) Ambulance runs, rescues, firefighting, emergency responses, or similar actual emergency activities; and
(b) Instruction in materials, techniques, or procedures not authorized to be performed by EMT-first responders.

Section 7. Renewal of EMT-FR Instructor Certification. (1) Unless it is renewed, the certification of an EMT-FR instructor shall expire two (2) years from the date of issuance.
(2) An applicant for EMT-FR instructor renewal shall:
(a) Submit to the cabinet a signed and completed application for EMT-FR instructor renewal;
(b) Provide documentation that he has obtained continuing education that meets the AIDS education required by KRS 214.510;
(c) Provide documentation of current CPR instructor certification;
(d) Provide documentation of current EMT basic or EMT first responder certification;
(e) Provide documentation of having provided a minimum of twelve (12) hours of active teaching of EMT first responders or EMT-FR candidates during the previous two (2) years;
(f) Provide documentation of at least twelve (12) hours of active involvement with the delivery of prehospital patient care or transportation services within an EMS system during the previous two (2) years; and
(g) Pay the fees as required in KAR 13:030;
(3) A Kentucky-certified EMT-B instructor who has not renewed his certification shall not:
(a) Teach an EMT-FR course;
(b) Teach an EMT-FR continuing education class;
(c) Serve as a lead instructor or assistant to the lead instructor; or
(d) Be eligible for renewal of the EMT-FR instructor certification.
(4) If the certification of an EMT-FR instructor expires, he shall meet the requirement of Section 2 of this administrative regulation before he may be eligible for certification.
(5) Instructor- requirements for EMT-FR rescuer are the same as for EMT-FR Instructor. The following persons shall be considered qualified to conduct in-service training and continuing education courses for EMT first responders:
(a) A physician licensed pursuant to KRS Chapter 311;
(b) A registered nurse licensed pursuant to KRS Chapter 314;
(c) A paramedic certified by the State Board of Medical Licensure;
(d) An emergency medical technician instructor or instructor trainer certified by the Cabinet for Human Resources; or
(e) An instructor who:
1. Is certified by a state or federal agency to teach a subject; and
2. Teaches a course which qualifies for EMT first responder in-service training or continuing education.
(2) As applicable, a physician, registered nurse, paramedic or emergency medical technician-certified by the state of the United States of America shall be certified as meeting the requirements of subsection (1)(a) through (e) of this section.

Section 8. Kentucky EMT-FR Transition Course. (1) An EMT-FR currently certified in Kentucky who completed his EMT-FR training based on a version other than the 1995 EMT-FR NSC shall, by December 31, 2002:
(a) Successfully complete the 1995 EMT-FR Transition Course (TC) based on the first responder refresher, NSC medical and trauma skills examination within two (2) attempts; or
(b) If unsuccessful in completing the course identified in paragraph (a) of this subsection, attend a complete twenty (20) hour EMT-FR TC and pass the skills examination within two (2) attempts.
(2) A Kentucky certified EMT-FR who holds out-of-state certification shall not be required to take the Kentucky EMT-FR TC if he provides documentation that he has completed equivalent training in another state prior to December 31, 2002.
(3) An EMT-FR, currently certified in Kentucky, who completed his EMT-FR training in a Kentucky 1995 NSC EMT-FR Pilot Program or a 1995 NSC EMT-FR course shall not be required to complete the EMT-FR TC.
(4) An EMT-FR, currently certified in Kentucky, who completed his EMT-FR training in a Kentucky 1995 NSC EMT-FR Pilot Program or a 1995 NSC EMT-FR course may complete the EMT-FR TC in order to obtain continuing education hours to meet the requirements of Section 6 of this administrative regulation for EMT-FR recertification.
(5) An EMT-FR TC shall be coordinated by an agency or organization approved by the cabinet such as:
(a) An EMS educational institution;
(b) A licensed Class I ambulance service; or
(c) An acute care facility.
(6) An agency or organization sponsoring a 1995 NSC EMT-FR TC shall:
(a) File with the cabinet, a written notice of intent to sponsor an EMT-FR TC at least two (2) weeks prior to the planned starting date of the course;
(b) Assume the responsibility for conducting the EMT-FR TC;
(c) Ensure that the course is at least twenty (20) hours in duration. This shall not include time for the course practical examination; and
(d) Utilize texts that shall:
1. Meet the requirements of the 1995 EMT-FR NSC;
2. Be currently in publication;
3. Be the most current edition available when the course begins;
4. Be maintained on file in the office of the sponsoring agency; and
5. Be available upon request during normal office hours or during course hours.
(e) Have available supplies and equipment, if needed, during course lessons, skills practice sessions, and examinations;
(f) Not permit a student to be on call while classes are in session; and
(g) Provide a designated lead instructor for lectures who:
1. Is an EMT first responder instructor certified by the cabinet; and
2. Has completed a Kentucky EMT-FR instructor orientation training program on the 1995 EMT-FR NSC.
(7) If there are more than ten (10) students enrolled in an EMT-FR TC, there shall be a minimum ratio of one (1) assistant instructor for each ten (10) enrolled students during skill practice sessions.
(8) A Kentucky-certified or licensed EMT-FR shall be available to assist as an evaluator for the course practical examination.
(9) An assistant instructor shall be Kentucky-certified or licensed as one (1) of the following:
(a) An EMT-B or EMT-FR instructor;
(b) A physician licensed by the Kentucky Board of Medical Licensure (KBML);
(c) A Kentucky-certified paramedic who:
1. Holds current instructor credentials in the American Heart Association Advanced Cardiac Life Support or Pediatric Advanced Life Support; or
2. Is a Level 1 fire service instructor;
(d) A Kentucky licensed registered nurse who:
1. Has completed an EMT-FR TC; and
2. Is a certified emergency medical technician;
3. Has evidence of three (3) consecutive years experience in an acute medical facility emergency department who:
(a) Holds current instructor credentials in the American Heart Association Advanced Cardiac Life Support or Pediatric Advanced Life Support; or
(b) Is a Level 1 fire service instructor; or
(e) A Kentucky certified EMT-B or EMT-FR who:
1. Holds current instructor credentials in the American Heart Association Instructor;
2. An American National Red Cross instructor; or
3. A National Safety Council instructor; and
VOLUME 27, NUMBER 2 - AUGUST 1, 2000

2. Holds current certification by:
   a. The Commission on Fire Protection Personnel Standards and
      Education as a Level 1 or higher fire protection instructor; or
   b. The Kentucky Law Enforcement Council as an instructor; or
   c. Has completed a cabinet-approved basic instructional method-
      ology course that consists of a minimum of sixteen (16) contact hours
      to include:
       a. Adult learning techniques;
       b. Use of audio visuals;
       c. Small group dynamics; and
       d. Evaluation techniques.
  (10) The sponsoring agency or organization shall:
     (a) Submit to the cabinet an application for approval to conduct an
     EMT-FR TC;
     (b) Submit to the cabinet the original copy of the:
     1. Results of the course skill station examination and
        2. Master grade sheet;
     (c) Maintain for a minimum of five (5) years or until December 31,
        2006, whichever comes first, the original copy of the:
        1. Lesson attendance;
        2. Required remediation;
        3. Validation that a student has demonstrated competency in the
           eleven (11) psychomotor skill objectives which are required in order to
           take the accompanying course practical skills examination; and
  (11) Provide a certificate of completion which specifies:
     1. The hours earned toward certification renewal; and
     2. An indication if the student was successful in completing the
        EMT-FR TC by passing the accompanying skill examination.
  (a) Assure that the accompanying course skill examination shall
      be administered with at least one (1) evaluator per station;
     (b) The skill station shall be designed to test one (1) or more
         stations that on the date of the examination, the EMT-FR candidate
         shall randomly choose if the station to be tested shall feature a medical or
         trauma patient condition, and at the same time the EMT-FR candidate
         shall randomly choose a scenario which shall be tested.
  (12) At the completion of the skills examination, an EMT-FR TC
      student shall be informed of his pass-or-fail status.
     (a) If an EMT-FR TC student fails to pass the required stations,
         he shall be permitted one (1) opportunity to retake the same station or
         stations which he failed, except that on the date of the retake, he shall
         randomly choose the scenario for his testing.
     (13) The retest may be administered by the same sponsoring
         agency or organization, that sponsored the EMT-FR TC in which the
         EMT-FR was enrolled, except that the evaluator shall not be the same
         evaluator who evaluated the EMT-FR during his first examination.
     (a) The EMT-FR again fails to pass the required skills station
         examination, he shall be required to retake the entire EMT-FR TC
         before he may be eligible for reexamination.
     (14) Until December 31, 2002, an EMT-FR may be allowed a
         maximum of two (2) attempts, with a maximum of one (1) retest on
         each attempt, to pass the accompanying practical skills examination.
  (15) An EMT-FR who has not been successful in passing the skill
       examination retake on the second attempt by December 31, 2002,
       shall not be eligible for Kentucky EMT-FR certification unless he re-
       takes and successfully completes the entire EMT-FR course.
       (Cardiopulmonary Resuscitation Requirement: (1) During the second year of
       the certification period, the EMT-FR candidate shall obtain or renew
       certification in cardiopulmonary resuscitation and related techniques as
       follows:
       (1) The course shall be conducted:
          1. By the authority of the American Heart Association or
             the American Red Cross; or
          2. Under its authority by an instructor certified by the American
             Heart Association or the American Red Cross;
       (2) The course shall be:
          1. Taught for credit; and
          2. Certified by the instructor to the American Heart Association or
             the American Red Cross as meeting all applicable standards of
             the organization;
       (3) The course shall provide instruction and testing in:
          1. One (1) rescue cardiopulmonary resuscitation;
          2. Two (2) rescue cardiopulmonary resuscitation;
          3. Techniques of changing from one (1) rescuer to two (2) rescur-
             ers during the performance of cardiopulmonary resuscitation;
          4. Techniques of changing rescuers during the performance of
             two (2) rescuer cardiopulmonary resuscitation;
          5. Techniques for relief of obstruction of the airway;
          6. Cardiopulmonary resuscitation of infants and small children; and
          7. Mouth-to-mouth or mouth-to-nose resuscitation for adults, small
             children, and infants.
       (4) The course shall provide for individual skill testing of all adult
          and infant related skills in subsection (1) of this section.
     (2) The applicant for renewal of certification shall forward to the
         cabinet a copy of both sides of the CPR card issued to him indicating
         successful completion of the CPR course as required in Section 6(1)
         of this administrative regulation.

Section 9. Authorized Procedures. A Kentucky certified EMT-FR
shall be authorized to:
(1) First responders may perform a procedure established [any of
the procedures set forth in the U.S. DOT 1995 EMT-FR NSC (a):
U.S. Department of Transportation] Curriculum;
(2) Possess and administer medical oxygen, including bag-valve
mask;
(3) Utilize an automated external defibrillator (AED) in accordance
with KAR 13:120 for an EMT-FR;
(4) Apply a cervical collar and perform long spine board immobi-
lization; and
(5) Utilize a sphygmomanometer and stethoscope for obtaining
blood pressure.

Section 10. Reciprocity. A person shall be eligible for direct recipro-
ancy for Kentucky certification as an EMT-FR if he meets the re-
quirements of Section 3 of this administrative regulation.

Section 11. Exemptions from EMT-FR Administrative Regulations. The
Kentucky certification requirements for an EMT-FR shall not apply to:
(1) United States military personnel or employees of the United
States government while engaged in the performance of their official
duties under federal law; or
(2) An EMT-FR who is certified in another state who comes into
Kentucky:
(a) To transport a patient into or through the state; or
(b) For the purpose of returning a patient to:
   1. His out-of-state residence; or
   2. To a medical facility in his out-of-state residence.

Section 12. Conversion of EMT Certification to EMT-FR Certifica-
tion. (1) If a Kentucky or out-of-state currently certified EMT-B re-
demands to convert his certification status to EMT-FR, he shall:
(a) Submit a written request to the cabinet to have his EMT-B
     certification converted to EMT-FR;
(b) Have successfully completed an EMT-B TC or EMT-FR TC;
(c) Have successfully completed, within the past two (2) years, the
     continuing education requirements listed in Section 6(1)(a) of this
     administrative regulation.
     (2) If an EMT-B converts his certification to an EMT-FR, he shall
     not be allowed to convert back to EMT-B status, unless he meets the
     EMT-B certification requirements of KAR 13:050. Section 1.

Section 13. Incorporation by Reference. (1) The following material
is incorporated by reference:
(a) The United States Department of Transportation, National
Highway Traffic Safety Administration, 1995 First Responder-National
Standard Curriculum;
(b) The United States Department of Transportation, National
Highway Traffic Safety Administration, 1995 First Responder-National
Standard Curriculum Refresher Course;
(c) The Kentucky EMT First Responder Curriculum Supplemental,
(898);
(d) The "Application for Emergency Medical Technician First Re-
sponder Certification" form (EMS Branch-FR-101), revised (02/98);
(e) First Responder Official Record of Continuing Education In-
service Form (FR-102) (old curriculum), revised 09/95;
(f) First Responder Official Record of Continuing Education In-service Form (FR-102A), revised (new curriculum) 11/08;
(g) FR-109 FR HIV/AIDS Affidavit, 05/98;
(h) FR-108 FR Implementing Agency Agreement, revised 06/98;
(i) FR-105 The EMT First Responder Course Syllabus (6/98);
(l) FR-107 FR Final Course Records Form, revised 03/98;
(k) FR-108 FR Course Master Grade Sheet, revised 04/98;
(l) FR-110 FR Certification Renewal Application, revised 02/98;
(m) FR-112 FR Transition Course Syllabus, revised 04/98;
(n) FR-113 FR To Participant Competency Record, revised 04/98;
(o) FR-114 FR Transition Course Application, revised 04/98;
(p) FR-115 FR Transition Course Approved Document, revised 05/98;
(q) FR-116 FR Transition Course Supplies and Equipment, revised 05/98;
(r) FR-118 FR Transition Course Agency Application, revised 05/98;
(s) FR-119 FR Implementing Agency Agreement, Renewal, revised 05/98;
(t) FR-120 FR Certification Application Return Form, revised 05/98;
(u) FR-121 FR Challenge Grade Form, revised 05/98;
(v) FR-122 FR Challenge Attendance Sign-In Sheet, revised 05/98;
(w) FR-124 FR Challenge Certification Application, revised 02/98; and
(x) FR-125 Transition Course Master Grade Sheet.
(2) This material may be inspected, copied or obtained at the Department for Public Health, Division of Adult and Child Health, EMS Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. *Emergency Medical Services: First Responder Training Course* (March 1979); and

RICE C. LEACH, M.D., Commissioner
JOHN WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: May 12, 2000
FILED WITH LRC: May 12, 2000 at 4 p.m.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at ARRS, July 11, 2000)

902 KAR 13:160. Emergency medical services educational institutions and emergency medical services testing agencies.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)
STATUTORY AUTHORITY: KRS 194A.030, 211.220, 211.964
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish requirements for an organization to be approved by the cabinet as an emergency medical services (EMS) educational institution or an EMS testing agency.

Section 1. EMS Educational Institution Requirements. (1) A public agency or private corporation that has been approved by the cabinet to establish an EMS educational institution shall be authorized to conduct a training program which shall meet requirements for initial EMT certification.

(2) An applicant shall:
(a) File, with the cabinet, a letter of request for approval to establish an EMS educational institution;
(b) Be located within Kentucky or a contiguous state;
(c) Submit to the cabinet:
1. The estimated number of EMT courses planned for each academic year from July 1 until June 30 of the following year;
2. The tentative starting and ending dates of each course; and
3. A copy of the EMT syllabus for courses to be taught. The syllabus shall be resubmitted to the cabinet if it is revised;
(d) Assign, in the following manner, a seven (7) digit number to each EMT course conducted:
1. The first three (3) digits shall correspond to the EMS educational institution approval number assigned by the cabinet;
2. The fourth and fifth digits shall correspond to the academic year. For example, if a course is taught between July 1, 2000 through June 30, 2001, the academic year number assigned shall be zero one (01) ninety-nine (99); and
3. The sixth and seventh digits shall correspond to the sequential number of courses begun between July 1 and June 30 of each year.
(e) Employ or have available the following key administrative personnel and faculty:
1. A chief administrative officer who shall be responsible for the overall management of an EMS-educational institution or the organization of which the EMS educational institution is affiliated;
2. A program coordinator who shall:
(a) Be responsible for the planning, administration and oversight of the EMS educational programs;
(b) Randomly monitor the activities of the faculty and students during the didactic, skills and clinical or field rotation phases of the educational program;
(c) Obtain and maintain records required by the educational institution or the cabinet related to the conduct of prehospital caregiver courses; and
3. Serve as a member of the course faculty, if he holds credentials in accordance with subparagraphs 3 and 4 of this paragraph and subsections (3) and (4) of this section. If a program coordinator meets the requirements of subsection (4) of this section, he may also function as the lead instructor.
3. A lead instructor who shall:
(a) If teaching an EMT-B Instructor candidate United States (US) Department of Transportation (DOT) EMT-B instructor method of instruction (MOI) educational course for a cabinet approved EMS educational institution, be a:
(i) Kentucky-certified EMT-B Instructor who has been certified for at least three (3) years and who has taught at least two (2) complete EMT-B training courses;
(ii) Kentucky-appointed EMT instructor trainer; or
(iii) Person who holds a Kentucky current EMT-B or EMT-paramedic certification in addition to holding a bachelor's degree in education or a valid Kentucky (KY) teaching certificate.
(b) If teaching an EMT-B course, be a Kentucky-certified EMT-B instructor; or
(c) If teaching an EMT-first responder course, be a Kentucky-certified EMT-B instructor or EMT-first responder instructor.
4. An assistant instructor who shall be:
(a) Minimally certified at the level for which the course is being conducted;
(b) A certified EMT-B instructor for an EMT-B course;
(c) Certified EMT-B instructor or an EMT-first responder instructor for an EMT-first responder course; or
(d) An adjunct faculty member who shall provide documentation to an EMS educational institution that he has actively lectured on or performed, within the most recent five (5) years, the skills or topic being taught; and
(f) Meet the requirements of the EMS educational institution Memorandum of Agreement.
(3) The lead instructor or an alternate instructor who meets the requirements of subsection (2)(e)/(4) of this section shall be present at each lecture and practical skills classroom session.
(4) A person who is certified at or above the level of the course being taught may serve as an assistant instructor during a practical skills lesson.
(5) There shall be present during a scheduled practical skills lesson:
(a) At least one (1) lead instructor for the first ten (10) students; and
(b) Another assistant instructor for each one (1) to ten (10) additional students taught in that class;
(5) An EMS educational institution shall assure that physical resources as required by the curriculum, such as classrooms, skill practice areas, textbooks, instructional aids, equipment, and supplies are:
(a) In good working condition; and
(b) Adequate in number for the number of students enrolled in the program to have sufficient opportunity for skills practice.

(7) An EMS educational institution shall develop and make available to a prospective student a clearly defined admission policy and procedure which shall include specific requirements for admission such as:

(a) Academic requirements;
(b) Health-related requirements; and
(c) Admission prerequisites.

(8) An EMS educational institution shall disclose to an applicant for admission:

(a) Accurate information regarding program requirements;
(b) Tuition and fees including remediation fees or other costs associated with the training program;
(c) A descriptive synopsis of the curriculum for each type of course taught;
(d) Course educational objectives;
(e) Classroom lecture and skill practice schedules;
(f) Clinical or field rotation locations and tentative schedules;
(g) Cabinet certification requirements for the level of training being offered; and
(h) The disciplinary actions described in 902 KAR 13:090 that may be grounds for denial, revocation, suspension, probation, or restriction of EMT certification.

(9) An EMS educational institution shall establish and maintain written policies to ensure that:

(a) Announcements and advertising shall accurately reflect the courses offered;
(b) A procedure shall be in place that shall allow complaints and grievances to be processed that are filed by:
   1. An applicant;
   2. A student; or
   3. A faculty member.
(c) There shall be a process for a student to withdraw from a course, and, if allowed, obtain a refund of tuition or fees paid;
(d) The health and safety of a patient, a student or a faculty member shall be protected while participating in educational activities;
(e) A student or a faculty member shall maintain proper personal and professional conduct during classroom and clinical or field rotation activities;
(f) Continuing education requirements for faculty members shall be established and maintained;
(g) Passing requirements for each course offered shall be established and maintained; and
(h) Examination policies are established and maintained.

(10) A student, while participating in a clinical or field rotation shall be clearly identified by name and student status by the use of:

(a) A nameplate;
(b) A uniform; or
(c) Other apparent means.

(11) An EMS educational institution shall maintain, for at least five years beyond the course completion date of the last classroom session of each EMT course:

(a) The student attendance for each course taught including:
   1. Lecture;
   2. Practical skill lessons; and
   3. Clinical or field rotation;
(b) A master copy of written examinations and answer keys administered for each course taught;
(c) A master copy of practical skill examination forms used during each course taught;
(d) A master copy of the current course syllabus for the courses taught;
(e) Faculty records on a participating faculty member that shall include:
   1. A complete resume; and
   2. A listing of academic preparation, clinical experience, current certifications and licenses;
(f) Health records that may be required by an EMS educational institution or through a written clinical affiliation agreement;
(g) A record of disciplinary action taken against a student or a faculty member. This shall include all responses and actions taken as a result of a complaint or grievance;

(h) Remediation activity for each student enrolled. This shall include how the specific remediation was accomplished and if the process was successful and

(12) An EMS educational institution shall:

(a) [Pay the fees required by 902 KAR 13:090, Section 1(2);
(b)] Within two (2) weeks following the EMT course completion date, submit to the cabinet a written summary report that includes the:
   1. Name of the cabinet-approved EMS educational institution;
   2. Course number;
   3. Name of the lead instructor and qualifications, including certification number and the lead instructor's certification expiration date during the time the course was conducted, as well as names and similar qualifications of instructor assistants and adjunct faculty for the EMT course;
   4. City in which the course is conducted;
   5. Starting and ending dates, the ending date being the last classroom session (the course ending date shall be a date prior to the date of the Kentucky Practical Skills Certification Examination date);
   6. Listing of the names and Social Security numbers of enrolled students for the EMT course;
   7. Identifier for the students referenced in subparagraph 6 of this paragraph who successfully passed the EMT training course requirements, with the provision of accompanying completed applications for Kentucky certification and required fees;
   8. Identifier for the students referenced in subparagraph 6 of this paragraph who continued throughout the course but were unsuccessful in passing the EMT training course requirements, with an identifier for ones yet attempting to finish clinical or field rotations; and
   9. An identifier for the students referenced in subparagraph 6 of this paragraph who did not continue throughout and dropped from the EMT course.

(b) [ee) Submit to the cabinet by September 1 of each odd-numbered year a biennial written summary report covering the two (2) previous academic years' data from July 1 of the first year through June 30 of the second year. The biennial written report shall include the data regarding courses conducted within the two (2) previous academic years. A biennial report shall contain, for each course taught:

1. Course number;
2. Name of the lead instructor;
3. Course location (city);
4. Starting and ending dates;
5. Number of students enrolled;
6. Number of students who successfully passed the EMT training course requirements;
7. Number of students who continued throughout the course but were unsuccessful in passing the EMT training course requirements; and
8. Number of students who did not continue throughout and dropped from the EMT course.

(13) If courses were not taught during the last reporting period an EMS educational institution shall file a biennial report with the cabinet stating that no courses were taught during the reporting period.

(14) Unless approval is revoked by the cabinet pursuant to Section 3 of this administrative regulation, the approval of an EMS educational institution shall be valid for a period of five (5) years.

(15) At the end of a five (5) year approval period, an EMS educational institution may reapply for approval for an additional five (5) year period.

Section 2. Probation of an EMS Educational Institution Program.

(1) The cabinet shall place an EMS educational institution program on probationary status if:

(a) During a twenty-four (24) month period, or after at least two (2) consecutive courses have been taught at the same level, more than twenty-five (25) percent of the course graduates who attempt to complete the certification examination process, fail to successfully pass the certification examination and associated certification process within twenty-four (24) months of the course completion date; or
(b) An inspection or investigation by the cabinet determines that an EMS educational institution has not met the requirements of:

1. Section 1 of this administrative regulation; or

- 527 -
2. The EMS educational institution Memorandum of Agreement.

(2) If the cabinet intends to place a program on probationary status, it shall notify the chief administrative officer of an EMS educational institution by certified mail.

(3) A program that is placed on probationary status shall not begin a new course within that same level of training during the term of the probationary period.

(4) Upon notification by the cabinet that a program within an EMS educational institution has been placed on probationary status, the chief administrative officer shall conduct an evaluation of the programs offered by the EMS educational institution. The evaluation shall include a review of:

(a) The qualifications, responsibilities, and performance of the program coordinator, medical director, lead instructor, and other course faculty;

(b) Student admission practices;

(c) Syllabi and objectives of courses offered;

(d) Graduation requirements for cabinet approved courses offered by the EMS institution;

(e) Faculty classroom involvement;

(f) Clinical or field rotation requirements and activities;

(g) Textbooks, equipment, supplies and ancillary learning aids used by the EMS educational institution during an approved course; and

(h) The ability of the EMS educational institution to meet the stated goals and objectives of the program.

(5) Within sixty (60) days of being placed on probationary status, the chief administrative officer shall provide a written report to the cabinet. The report shall include:

(a) Problems identified during the review process conducted pursuant to subsection (4) of this section; and

(b) A detailed plan for corrective action, including a time frame for the completion of the plan.

(6) After review of the written plan of correction, the cabinet may:

(a) Approve the entire plan;

(b) Approve a portion of the plan and require additional or alternative corrective action; or

(c) Disapprove the plan and restrict or revoke the approval of the EMS educational institution.

(7) Within sixty (60) days of receiving a written plan of correction, the cabinet shall notify the chief administrative officer, by certified mail, of the planned action of the cabinet.

(8) The cabinet shall monitor compliance and may conduct an investigation to determine if a requirement established for corrective action has been met.

Section 3. Denial, Revocation, Suspension, and Restriction of Approval of an EMS Educational Institution. (1) The cabinet may deny, revoke, suspend, or restrict the approval of an EMS educational institution if the EMS educational institution:

(a) Is on probationary status and fails to meet the corrective action required by the cabinet;

(b) Faculty member or staff member reproduces or reconstructs, or attempts to reproduce or reconstruct, a portion of a training or certification examination for the purpose of assisting another to cheat on the examination;

(c) Faculty member or staff member disseminates information for purposes of reproduction or reconstruction of a portion of a training or certification examination in order to assist another to cheat on the examination;

(d) Faculty member or staff member cheats, or assists another to cheat, on an examination for training or certification;

(e) Falsifies a record of training or continuing education;

(f) Fails to pay a fee or issues a check for a fee required by 902 KAR 13:030 on an invalid account or an account that does not have sufficient funds;

(g) Fails to file a written biennial report as required by Section 1(12)(c) or (13) of this administrative regulation; or

(h) Fails to meet the requirements of the EMS educational institution Memorandum of Agreement.

(2) If the approval of an EMS educational institution is denied, restricted, suspended or revoked by the cabinet, the EMS educational institution shall be provided an opportunity to appeal the decision in accordance with the provisions of 902 KAR 1:400.

Section 4. EMS Testing Agencies. (1) AnEMS educational institution, public agency, or private corporation may be approved to administer the practical skills and written certification examinations if they:

(a) File, with the cabinet, a letter of request for approval to establish an EMS testing agency; and

(b) Meet the requirements of the EMS testing agency Memorandum of Agreement.

(2) A person shall not Proctor for the written portion nor function as an examiner or an examination representative for the practical skills portion of a Kentucky EMT certification examination for an EMT candidate if:

(a) Served as a key administrative personnel of an EMT-Basic course for which candidates are being tested as described in Section 1(2)(e) of this administrative regulation;

(b) Supervises or is supervised by the candidate;

(c) Is a family member of the candidate; or

(d) Has a conflict of interest that could potentially bias the examiner or examination representative of the practical skills portion or the proctor of the written portion of the Kentucky EMT certification examination toward or against the candidate.

(3) The EMS testing agency shall:

(a) Be responsible for securing examiners for the practical skills portion of the Kentucky EMT certification examination who shall:

1. Be currently certified or licensed to perform the skills at or above the level of training of the candidate being tested,

2. Document that they have had a minimum of two (2) years pre-hospital patient care experience prior to serving as an examiner; and

3. Have completed a cabinet-approved practical skills examiner training program conducted by the cabinet or personnel of a cabinet-approved testing agency;

(b) Verify the eligibility of a candidate applying to initially test or retest for the Kentucky EMT-B practical skills or written portion of the Kentucky EMT certification examination. Eligibility for subsequent testing or retesting shall follow the guidelines of the:


4. "1995 EMT First Responder, Examination Coordinator Manual", incorporated by reference in 902 KAR 13:110; and

5. EMS Branch requirements of the cabinet pursuant to subparagraphs 1 through 4 of this paragraph; and

(c) Be responsible for securing proctors for the written portion of the Kentucky EMT certification examination who shall comply with the requirements of subsection (2) of this section and who shall not be an EMT training program coordinator or an EMT instructor as established in Section 1(2)(e)2 and 3 of this administrative regulation.

(4) The approval of an EMS testing agency may be revoked, denied, revoked, suspended, or restricted if an agency faculty member or representative is found to have committed an offense described in Section 2(1)(b), (c), (d), (e), (f) or (h) of this administrative regulation.

(5) The approval of an EMS testing agency may be revoked, denied, revoked, suspended, or restricted if an agency proctor, examiner, or other representative is found to have violated a testing guideline established in subsection (3)(b) of this section.

(6) If the approval of an EMS testing agency is denied, restricted, suspended or revoked by the cabinet, the EMS testing agency shall be provided an opportunity to appeal the decision in accordance with the provisions of 902 KAR 1:400.

Section 5. Public Notice of Negative Action. The cabinet shall publish, in the EMS Newsletter, similar publication of the cabinet, or otherwise disseminate the name of an EMS educational institution or EMS testing agency that:

(1) Is placed on probationary status;

(2) Is placed on restrictive status;

(3) Is suspended; or

(4) Has had approval as an EMS educational institution or EMS testing agency revoked.
Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) EMS Educational Institution Memorandum of Agreement (EMS Branch 7/99); and
(b) EMS testing agency Memorandum of Agreement (EMS Branch 6/99).

(2) This material may be inspected, copied or obtained at the Department for Public Health, Division of Adult and Child Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

JIMMY D. HELTON, Secretary
RICE C. LEACH, M.D., Commissioner
JOHN WALKER, Attorney
APPROVED BY AGENCY: May 12, 2000
FILED WITH LRC: May 12, 2000 at 4 p.m.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at ARRS, July 11, 2000)

902 KAR 14:070. License procedures and fee schedule for ambulance providers.

RELATES TO: KRS 211.950 to 211.956, 216B.010 to 216B.130, 216B.990

STATUTORY AUTHORITY: KRS [Chapter 195], 211.952, 216B.020(4), 216B.042, 216B.085, 216B.105, 216B.410; EO 95-882; 499 Ky. Acts ch. 239

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 95-882, effective July 2, 1995, redesignates the Cabinet for Human Resources and places the Cabinet for Public Health and its programs under the Cabinet for Health and Family Services.] KRS 216B.042 and 216B.105 require [requires that] the Cabinet for Health Services [to regulate health facilities and health services. KRS 211.952 requires the cabinet to establish a single lead agency within the Department for Public Health, with the responsibility for promulgating administrative regulations for licensing, inspecting, and regulating ambulance providers. This administrative regulation provides specific requirements for obtaining and maintaining a license to operate an ambulance service and establishes the fee schedule for a license.

Section 1. Definitions. (1) "Advanced life support (ALS)" means certified and licensed emergency medical professionals who provide prehospital medical care such as:
(a) Basic life support services;
(b) Advanced airway management such as endotracheal intubation;
(c) Defibrillation; and
(d) Administration of intravenous fluids and pharmaceuticals under the authority of a physician medical director.
(2) "Ambulance service" means an ambulance provider as defined in KRS 211.952(2) and 211.962(2)(c)(1), 2, 3, and 4.
(3) "Basic life support (BLS)" means certified or licensed emergency medical personnel who provide prehospital medical care such as:
(a) First aid;
(b) Cardiopulmonary resuscitation;
(c) Airway management; and
(d) Cervical spine control;
(e) Breathing assistance;
(f) Hemorrhage control; and
(g) Basic patient movement procedures.
(4) "Continuing education" means the provision of information or training within the scope of an individual’s level of certification.
(5) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.
(6) "Nonemergency health transportation (NEHT)" means an ambulance provider which meets the requirements of 902 KAR 14:090 and is licensed by the cabinet to provide health care transportation on a scheduled basis to individuals whose impaired health condition requires special transportation considerations, supervision, or handling but does not indicate a need for emergency medical treatment during transit or emergency medical treatment upon arrival at the final destination. NEHT providers shall not transport a patient who requires basic or advanced life support or a patient who has in place a temporary invasive device or equipment such as an intravenous administration device or airway maintenance device, excluding urinary catheters; or a patient who requires close observation or monitoring preceding or following an invasive technique.
(7) "Specialized ground ambulance provider" means a Class I, Class II, or air ambulance provider which is licensed by the cabinet to provide health care and transportation on an emergency or nonemergency scheduled basis that:
(a) May be unavailable to the general public; and
(b) Has specialized or limited functions such as interfacility transfer of critical patients who may require special consideration of:
1. Equipment requirements;
2. Personnel requirements; or
3. Hour of operation.

Section 2. Licenses. (1) A person shall not establish a BLS or ALS ground ambulance service, BLS or ALS air ambulance service, or NEHT service in Kentucky without first obtaining a certificate of need, except as provided in Section 5 of this administrative regulation; and such person shall not operate a BLS or ALS ground ambulance service, or NEHT service without first obtaining a Kentucky Ambulance License, Form EMS-2 (12/94), incorporated by reference, from the licensing agency.

(2) Effective July 15, 1995, the licensing agency shall not license a new BLS or ALS ground ambulance service.
(3) Effective December 31, 1995, the licensing agency shall not license a new NEHT service.
(4) Effective July 15, 1996, the following classes of ambulance providers shall not be licensed: Class I, Class II, Class III, Air, or NEHT. A person shall not establish a Class I, Class II, or Class III ground [or air] ambulance service in Kentucky without first obtaining a certificate of need, except as provided in Section 5 of this administrative regulation, and shall not operate a Class I, Class II, or Class III, air or ambulance service without first obtaining a Kentucky Ambulance License, Form EMS-2 (9/96), incorporated by reference, from the licensing agency.

(5) The license shall be conspicuously posted in a public area of the facility.
(6) An ambulance provider shall file a "Kentucky Application for Ambulance Service Licensing", Form EMS-1 (9/96) [an application] with the Department for Public Health, Emergency Medical Services Branch, 275 East Main Street, Frankfort, Kentucky 40621, [in accordance with the following schedule:]
(a) An ambulance provider licensed prior to July 15, 1996 shall file a "Kentucky Application for Ambulance Service Licensing", Form EMS-1 (10/94), incorporated by reference;
(b) An ambulance provider licensed after July 15, 1996 shall file a "Kentucky Application for Ambulance Service Licensing", Form EMS-1 (9/96), incorporated by reference;
(c) An ambulance provider licensed as a NEHT service prior to December 31, 1996 shall file an "Application for License to Operate a Nonemergency Health Transportation Service", Form EMS-1N (12/94), incorporated by reference;
(d) An applicant for a license shall, as a condition precedent to licensing or relicensing, be in compliance with applicable administrative regulations under 902 KAR Chapter 14.
(8) The licensee shall, as a condition of licensing or relicensing, be in compliance with the reporting requirements established by the licensing agency, unless otherwise exempted by statute.
(9) The licensee shall maintain and submit completed reports required by:
(a) KRS 216B.410;
(b) 902 KAR 14:080, Section 3(2)(a); and
(c) 902 KAR 14:082, Section 3(2)(a).
(10) The license shall expire one (1) year following the date of issuance, unless otherwise provided in the license certificate.
(11) A license may be renewed upon payment of the pre
scribed fee and compliance with the provisions for licensing.
(10) [49] A new application shall be filed if a change of ownership occurs. A change of ownership for licensees shall be deemed to occur if more than fifty (50) percent of an existing facility, capital stock, or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person from another.

(11) [44] Upon filing a new application for a license due to change of ownership, the new license shall be automatically issued for the remainder of the current licensure period. [No additional fee shall be charged for the remainder of the licensure period.]

(12) [45] There shall be full disclosure to the licensing agency of the changes, such as name and address, of:
(a) A person having direct or indirect ownership interest of ten (10) percent or more in the service;
(b) Officers and directors of the corporation, if a service is organized as a corporation; and
(c) Partners, if a provider is organized as a partnership.

Section 3. Licensing Inspections. (1)(a) Compliance with licensing administrative regulations may be ascertained through on-site inspections of the provider by representatives of the licensing agency.
(b) On-site inspections may be conducted annually if any deficiencies cited in an inspection, and biennially if no deficiencies were found during the past two (2) years involving critical equipment, policy and documentation as established by the licensing agency.
(2) Representatives of the licensing agency shall have access to the service during the hours the service operates.
(3) A regulatory violation identified during an inspection shall be transmitted in writing to the provider by the licensing agency.

(4)(a) The provider shall submit a written plan for the elimination or correction of the regulatory violations to the licensing agency within ten (10) days of receipt of the statement of deficiencies [violation].
(b) The plan shall specify the date, method, or equipment which will be used to correct each deficiency cited [by which the violation shall be corrected].

(5)(a) Following a review of the plan, the licensing agency shall notify the provider in writing of the acceptability of the plan. The licensing agency may conduct a follow-up visit to verify compliance with the plan.
(b) If a portion or all of the plan is unacceptable, the licensing agency shall specify in writing the reasons for the unacceptability. The provider shall modify or amend the plan and resubmit it to the licensing agency within ten (10) days after receipt of notice that the plan is unacceptable.
(6) Unannounced inspections may be conducted on complaint allegations, follow-up visits, and relicensing inspections. Inspections shall be conducted utilizing the procedures outlined under this section.
(7) The licensing agency may deny, revoke, modify, or suspend the license of a provider which:
(a) Fails to submit, amend, or modify a plan of correction in order to eliminate or correct regulatory violations;
(b) Fails to eliminate or correct regulatory violations;
(c) Falsifies an application for licensing;
(d) Tampers with, alters, or changes a license issued by the licensing agency;
(e) Attempts to obtain or obtains a license by fraud, forgery, deception, misrepresentation, or subterfuge;
(f) Provides false or misleading advertising;
(g) Falsifies, or causes to be falsified, a patient record or ambulance run report;
(h) Provides an unauthorized level of service;
(i) Has a history of staff violations which have resulted in disciplinary action under 902 KAR [15:620 and] 13:090;
(j) Fails to provide the licensing agency or its representative with true information upon request, or obstructs an investigation regarding alleged or confirmed violations of administrative regulations promulgated under:
1. KRS 211.950 to 211.955;
2. KRS 211.960 to 211.968;
3. KRS 211.990(5); and
4. KRS 216B; and
5. KRS 311.654; or
(k) Issues a check for a license on an invalid account or an account with insufficient funds to pay the fee specified in Section 4 of this administrative regulation.

(8) The licensing agency or its authorized representative may issue an order directing a provider to immediately cease and desist operating an ambulance, or providing services, if the licensing agency has reasonable cause to believe that an ambulance or service is unsafe or is being operated in an unsafe or unprofessional manner that is likely to cause harm or create imminent danger to the health and safety of the public.
(9) The licensing agency may deny, revoke, modify, or suspend the license of an ambulance provider if an owner of the service is convicted of obtaining a fee by:
(a) Fraud or misrepresentation; or
(b) Submitting fraudulent or misleading claims for reimbursement to individuals, private insurance companies, or governmental agencies.

(10) The licensing agency shall provide notice and an opportunity for an administrative hearing related to denial, revocation, modification, or suspension of a license in accordance with the provisions of KRS 216B.105.

Section 4. Fee Schedule. The annual licensing fee, including renewals, shall be as follows:
(1) Nonvolunteer ambulance providers: eighty (80) dollars;
(2) Volunteer ambulance providers in which a majority of the ambulance runs are made by attendants who do not receive compensation for their work: twenty (20) dollars.

Section 5. Licensing Without a Certificate of Need. (1) A person proceeding to alleviate emergency circumstances pursuant to 900 KAR 6:080, Section 12 [6916; Section-9], may be granted a temporary license to operate an ambulance service in Kentucky pending the approval of [or] disapproval of his application for a certificate of need. The temporary license shall expire forty-five (45) days after notice of approval of the certificate of need or thirty (30) days after notice of disapproval of certificate of need.
(2) An ambulance service owned and operated by a city government which provides services in coterminous cities outside the ambulance service's designated service area pursuant to KRS 216B.020(4) may be licensed in accordance with the provisions of this administrative regulation without a certificate of need as if they had a certificate of need.

Section 6. Incorporation [Material incorporated] by Reference. (1) The following material is incorporated by reference;

(2) This material may be inspected, copied or obtained at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday:
CABINET FOR HEALTH SERVICES  
Department for Public Health  
Division of Adult and Child Health  
(As Amended at ARRS, July 11, 2000)

902 KAR 14:080. Class I ground ambulance providers.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires that the Cabinet for Health Services to regulate health facilities and health services. KRS 211.952(2)(c) requires the cabinet 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.

Section 1. Definitions. (1) "Advanced life support (ALS)" means a Class I ground ambulance provider which:
(a) Utilizes certified and licensed emergency medical professionals to provide prehospital medical [Medicare] care such as:
   1. Basic life support services (BLS);
   2. Advanced airway management such as endotracheal intubation;
   3. Defibrillation;
   4. Administration of intravenous fluids and pharmaceuticals under the authority of a physician; and
(b) Meets the requirements established in Sections 1 through 10 of this administrative regulation and is licensed by the cabinet to provide health care and transportation on an emergency basis.
(2) "Ambulance" means a vehicle as defined in KRS 211.950(2) which is permitted by the cabinet to be a principle vehicle utilized by an ambulance provider for the provision of:
(a) Emergency care and transportation; or
(b) Nonemergency patient transportation without the use of red lights and sirens. "Back-up ambulance" means an ambulance as defined in KRS 211.950 which complies with the requirements of Section 4(5) through (9) of this administrative regulation and is licensed by the cabinet to provide emergency care and transportation if:
   (a) One (1) of the licensed primary ambulances is not in service; and
   (b) All of the primary ambulances are on runs and extreme circumstances dictate its use.
(3) "Base station" means the primary physical location of the ambulance service that includes the administrative offices, telephone communications, vehicles and the required supporting documentation of the service.
(4) "Basic life support (BLS)" ["BLS"] means a ground ambulance provider which:
(a) Utilizes at least two (2) certified or licensed emergency medical personnel to provide prehospital medical care such as:
   1. First aid;
   2. Cardiopulmonary resuscitation;
   3. Airway management;
   4. Cervical spine control;
   5. Breathing assistance;
   6. Hemorrhage control; and
   7. Basic patient movement procedures; and
(b) Meets the requirements established in Sections 1 through 7 and 9 through 11 and is applicable to, of this administrative regulation and is licensed by the cabinet to provide health care and transportation on an emergency basis.
(5) "Call received time" means the time the notification is made by dispatch of an emergency or potential emergency and the need for the emergency ambulance service to physically respond.
(6) "Continuing education" means the provision of information, education, or training (within the scope of an individual's level of certification).
(7) "CPR" means cardiopulmonary resuscitation as conforming to the basic resuscitation course of the American Heart Association; the National Safety Council; or the basic life support professional resuscitation course of the American Red Cross, which shall include as a minimum one (1) and two (2) person CPR, airway obstruction, and airway adjuncts for adults, children, and infants.
(8) "Deficiency" means a violation that was found, by a cabinet representative, when a service failed to comply with this administrative regulation and 902 KAR 14:070 [these administrative regulations].
(9) "Dispatch center" means the location where:
   (a) Incoming calls are initially received requesting an ambulance; and
   (b) Contact is made with the ambulance service [provider] for direction to the patient scene.
(10) "Emergency" means services provided after the sudden onset of a medical condition or injury manifesting itself by acute symptoms of such severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in any of the following:
   (a) Placing the patient's health in serious jeopardy;
   (b) Serious impairment to bodily functions; or
   (c) Serious dysfunction of any bodily organ or part.
(11) "Emergency medical technician-basic (EMT-B)" means a person certified pursuant to 902 KAR 13:010 through 902 KAR 13:100.
(12) "Emergency medical technician-first responder" means a person certified pursuant to 902 KAR 13:110.
(13) "Employee" means a person [ambulance provider medical personnel] who may be paid or volunteer, full time or part time and has been approved by the administrator of the ambulance service to work within their qualifications and have documentation required by this administrative regulation.
(14) "Interfacility care" means BLS or ALS emergency or nonemergency medical [health] care provided to a patient during ambulance transportation between two (2) health care facilities.
(15) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.
(16) "Paramedic (EMT-P)" means a person certified pursuant to 201 KAR 9:101 through 201 KAR 9:136.
(17) "Prehospital care" means emergency health care provided to a patient before and during ambulance transportation to a hospital.
(18) "Primary ambulance" means an ambulance as defined in KRS 211.950(1) which is licensed by the cabinet to be a principle vehicle utilized by an ambulance provider for the provision of:
   (a) Emergency care and transportation; or
   (b) Nonemergency runs.
(19) "Provider" means a Class I ground ambulance provider as defined in KRS 211.950(2), and 211.952(1)(2).
(20) "Response time" means the time from which a call is received at the dispatch center, until an ambulance arrives at the patient scene.
(21) "Satellite" means a physical location where an ambulance is based from on a twenty-four (24) hour basis. The satellite must have an actual street address.
(22) "Specialized ground ambulance provider" means a Class I ground ambulance provider which meets the requirements of Section 12 [44] of this administrative regulation and is licensed by the cabinet to provide medical [health] care and transportation on an [a] emergency or scheduled basis that:
   (a) May be unavailable to the general public; and
   (b) Has specialized or limited functions such as interfacility transfer of critical patients who may require special consideration of:
      1. Equipment requirements;
      2. Personnel requirements;
      3. Hours of operation.

Section 2. Class I Ground Ambulance Licensing Requirements.
(1) The following licensing requirements shall apply to Class I providers:
(a) A person shall not provide, advertise, or profess to engage in the provision of Class I, or specialized Class I emergency medical care or transportation that originates in Kentucky without having first

- 531 -
obtained a certificate of need and a license from the cabinet.

(b) An ambulance provider shall:
1. Comply with local, state, and federal statutes and regulations;
2. Provide emergency medical services to anyone regardless of race, color, religion, sex, national origin, or age over forty (40), [state medical condition, sexual orientation, or ability to pay]; and
3. The license shall be displayed in a prominent place at the service base station. The following information shall be included on the license:
   1. Identity and physical location of the base station;
   2. Number and physical location of satellites [substations], if any, to be operated by the licensee;
   3. Designation of the specific geographic area to be served by the licensee, shall conform with the certificate of need issued for the service. The service shall provide with its [their] annual renewal application an accurate map and a written description which delineates the boundaries of the area served by the Class I provider, [allowing for a maximum of thirty (30) minutes initial response time for ninety-five (95) percent of the calls]; and
   4. The provider shall not be deferred from responding to emergency calls outside of its geographic service area if it has been determined that the Class I ground ambulance provider has the closest available unit. When providing:
      a. Mutual aid to another ambulance provider or by a written mutual aid agreement with another Kentucky licensed Class I ambulance provider, the following priorities shall be followed for establishing a mutual aid agreement:
         (i) A Class I provider which is licensed to serve the same service area;
         (ii) A Class I ground ambulance provider which serves part of the same service area or a contiguous service area;
      b. Disaster assistance;
      c. Nonemergency transfers from damaged or closed health facilities;
      d. Interfacility care to residents of its service area, who are patients in facilities outside of its service area, for the purpose of returning the patients to their home service area or transporting them to another health facility;
      e. The level of care which the ambulance provider shall be authorized to provide including [i.e.,] BLS or ALS, or special equipment [Critical Care ALS]; and
      f. Designation of the number of primary ambulances to be operated by the provider.

(d) No new or replacement back-up ambulances shall be licensed. A provider with currently licensed back-up ambulances shall, upon application for renewal of the license, declare the total number of ambulances to be operated with no distinction made between primary and back-up vehicles. This total shall not exceed the total number of ambulances previously licensed.

(f) Each ambulance licensed shall be staffed, equipped, and available to respond to emergency calls at all times:

(g) Each ambulance provider shall provide the licensing agency with the make, model, year, vehicle identification [serial] number and license tag number of each ambulance permitted [licensed].

(h) The licensing agency shall:
1. Notify the licensing agency of any change in the number, type, or use of the ambulances to be operated; and
2. Meet the following requirements:
   a. An ambulance shall not be operated until after the licensing agency has been notified and has verified, through a physical inspection, that it meets the requirements of this administrative regulation [if the ambulance represents an expansion of service (e.g., an increase in the number of ambulances) the licensing agency shall verify that a certificate of need has been granted prior to the inspection]; and
   b. The licensing agency shall be notified, on the next licensing agency business day, following disposition of any prior approved ambulance operated by the ambulance provider including [i.e.,] discontinued from service, change in use by the same ownership, or sale to another identified licensed ambulance provider).

(i) The licensing agency shall not preclude the ambulance provider from utilizing a replacement ambulance on a temporary basis if a previously approved ambulance is out of service for maintenance. The following requirements shall apply:
1. The licensing agency shall be [immediately] notified within twenty-four (24) hours (or on the next business day) by phone of the need for an ambulance provider to operate a temporary replacement ambulance [unit]. Within five (5) days, the ambulance provider shall send the licensing agency:
   a. Written notice of the make, model, year, license tag number, and vehicle identification number for both vehicles; and
   b. Assurances that the temporary replacement ambulance meets the General Services Administration KKK-A-1822 standard requirements and the requirements of this administrative regulation;
2. A temporary replacement ambulance shall not be utilized for more than thirty (30) days, unless the licensing agency has verified, through a physical inspection, that it meets the requirements of this administrative regulation; and
3. If the ambulance provider plans to utilize the replacement ambulance for more than thirty (30) days, the provider shall notify the licensing agency of the anticipated length of time the replacement will be in use; and
4. The licensing agency shall be notified if the replaced unit is back in service.

(g) The licensing agency shall maintain identifying records on all ambulances according to established procedures.

2. A licensed Class I provider shall have on file proof of professional and vehicular liability insurance.

3. The following situations shall be exempt from the provisions of this administrative regulation:

   a. First aid or transportation provided in accordance with KRS 2168.020(2)(f);
   b. A vehicle serving as an ambulance during a major catastrophe;
   c. An ambulance operated by the United States government;
   d. An ambulance from an out-of-state licensed ambulance provider making a nonemergency run originating from a Kentucky facility for the purpose of returning a patient who is not a Kentucky resident to his state of residence;
   e. A person proceeding to alleviate emergency circumstances pursuant to 900 KAR 6:050, Section 12; and
   f. An ambulance service owned and operated by a city government which provides services in out-of-town areas outside the ambulance service's designated service area pursuant to KRS 2168.020(4).

4. An ambulance service licensed in an adjoining state that responds to a mutual aid request for emergency assistance in an unusual circumstance from a Kentucky licensed Class I ground ambulance service if:
   1. The Kentucky service has insufficient resources to meet the emergency needs; and
   2. Another ambulance service in Kentucky:
      a. Is unavailable; b. Has already responded; or c. Is physically unable to reach the incident.

Section 3. Class I Management Requirements. A Class I ambulance provider shall:

1. Establish lines of authority (i.e., an organizational chart) to include the designation of an:
   a. Administrator responsible for assuring compliance with this administrative regulation during the daily operation of the service; and
   b. A designee who shall serve if necessary in the absence of the administrator.

2. Maintain adequate records and reports at the ambulance service base station to be made available for review as deemed necessary by the cabinet, including:
   a. An original, microfilm, electronic equivalent, or similar copy provided the licensing agency authorized in KRS 2168.410 for all runs originating in Kentucky pursuant to the following requirements of subparagraphs 1, 2, 3, and 4 of this paragraph:
      1. [Prior to April 1, 1999] A Class I provider shall utilize:
         a. The EMS run form, EMS-9A “Kentucky Emergency Medical Service Ambulance Run Report” (991) or
         b. The EMS-9A and EMS-8B “Kentucky Emergency Medical Ambulance Run Report” (999), filing all non-shaded portions of the run form appropriate for each patient and each run;
      2. Effective April 1, 1999, a Class I provider shall utilize:
         a. The EMS-9A and EMS-8B “Kentucky Emergency Medical Ambulance Run Report” (999), filing all nonshaded portions of the
run report form as appropriate for each patient and each run;
(b) A run form developed by the Class I provider shall that:
(i) Contain all of the required run data of the EMS-8A and EMS-8B (9/98); and
(ii) Be submitted to the cabinet for review and approval prior to being used to ensure consistency with the reporting requirements of KRS 216B.410(1); or
(c) An electronic ambulance run reporting system which shall:
(i) Contain all of the required run data of the EMS-8A and EMS-8B (9/98); and
(ii) Provide required run form data to the cabinet in a format compatible with the electronic information system requirements of the cabinet. To ensure consistency with the reporting requirements of the cabinet the cabinet shall, upon request by the provider, supply a copy of file layout requirements to the provider.
2. [9] A copy of completed run report forms shall be kept as required by KRS 216B.410(1) and guidelines established by the licensing agency. In a manner of confidentiality and safekeeping for a minimum of five (5) years from the date on which the service was rendered, or in the case of a minor, until five (5) years after the minor reaches eighteen (18) years of age; and
3. [4] The third copy of the run form, or an electronic equivalent in a format consistent with the electronic information system requirements of the cabinet, shall be forwarded to the cabinet or its data center for destruction by the cabinet within thirty (30) days following the end of the month in which the run occurred.
(b) Personnel files on each ambulance driver and attendant that shall be maintained as required by KRS 216B.410(8)(a) and (b) for:
1. A minimum of five (5) years, or longer if specified in local government archives approved schedules, following termination or retirement from employment; or
2. Five (5) years following the demise of the employee.
(c) Individual ambulance driver and attendant personnel files that shall, as a minimum, contain evidence of:
1. Training;
2. Experience;
3. Current credentials [including proof] of [OPA certification, or] EMT or paramedic certification with corresponding numbers and expiration dates, or nursing or physician's license;
4. [Current] driver's license;
5. [A] preemployment criminal and Department of Transportation driver's records check for each individual added to the service;
4. Work-related [6e] health records [to include:
   a. Written evidence of a preemployment health assessment having been conducted by a physician or a licensed advanced registered nurse practitioner (ARNP) stating the employee is capable of performing assigned job duties;
   b. Health records which meet the requirements of KRS 216B.410(8) (69).
3. Maintain and follow written administrative, personnel, medical, and other operational policies and procedures that are reviewed on an annual basis by the ambulance provider in order to assess their effectiveness. The policies and procedures shall be developed to include the following areas:
   a. Organizational structure, staffing, and allocation of responsibilities and accountability;
   b. Ambulance service mutual aid agreements and agreements with other ambulance providers;
   c. Personnel performance guidelines, and
   d. A written plan to assure that a continuing education program shall be provided for all staff. The program shall include: (a) Evidence of continuing education for staff regarding acquired immune deficiency syndrome (AIDS) and infection control, including the handling of infectious waste in accordance with Centers for Disease Control guidelines.
   (b) A written [2–A] plan for response to, and the protection and decontamination of, the patient, ambulance, equipment, and staff if called upon to transport a patient exposed to hazardous materials [elsewhere];
   (c) A written [3–A] plan for assessing all other staff continuing education needs, with a coordinated development of methods to meet those needs; and
   (d) [4] The maintenance of training rosters or other written records to support continuing education conducted by, or at the request of, the licensee.
5. Policies and procedures concerning:
   a. Vehicle maintenance;
   b. Standard operating procedures (SOPs);
   c. Patient protocols;
   d. Ambulance response;
   e. Transport limitations; and
   f. Patient destination;
6. Ambulance services shall have a written emergency operations plan (EOP) for handling multicasualties incidents and disasters which shall address the following:
   a. Landing zones for helicopters;
   b. Casualty collection sites;
   c. Casualty evacuation plans;
   d. Training for personnel;
   e. Personnel participation in county emergency management disaster exercises;
   f. Personnel who will respond to the emergency operations center in a disaster.

Section 4. Class I Operating Requirements. (1) A Class I ambulance provider shall provide emergency care and transportation on a twenty-four (24) hour, seven (7) days a week, basis. This provision may be met through a call system or by a written mutual-aid agreement with another Kentucky licensed Class I ambulance provider. The following priorities shall be followed for establishing a mutual-aid agreement:
(a) A Class I provider which is licensed to serve the same service area.
(b) A Class I ground ambulance provider which serves part of the same service area or a contiguous service area.
2. If a Class I ground ambulance provider determines he is unable to have an ambulance en route responding within five (5) minutes from the time of the emergency, the provider shall firmly contact the closest available Class I ground ambulance provider and notify the dispatch center that they are unable to have an ambulance en route to the emergency scene.
3. A Class I ground ambulance provider may [also] enter into [additional] mutual aid agreements with other Kentucky licensed Class I ground ambulance providers on an occasional basis to meet the needs of its service area for providing scheduled nonemergency transportation by contacting the closest available provider to the patient.
4. If a Class I ground ambulance provider provides nonemergency transfers, the response must be made within sixty (60) minutes or less unless a requesting medical facility approves of a delay that will not compromise the patient's care. If the sixty (60) minutes time frame cannot be met then the licensee shall have and activate its mutual aid agreement, [requests and] declines a request for an emergency interfacility transfer, the licensee shall activate its mutual aid agreement, if necessary, for a nonemergency transfer. If the licensee is unable to respond to an emergency interfacility transfer, any Kentucky licensed Class I ground ambulance provider may accept the transfer.
5. A provider who accepts a transfer outside of its service area shall require documentation from the facility or the provider licensed for the service area indicating that a good faith effort was made to utilize the provider licensed for the area.
6. A Class I ambulance provider shall not refuse an emergency request if a unit is available in the service area. If a Class I ambulance provider also makes nonemergency runs, at least one (1) ambulance shall be held in reserve by the licensee to respond to emergency calls within the geographic service area of the licensee to be used in that area.
7. In areas where fire departments, rescue squads, or other organizations provide first response to medical emergencies, in order to
provide for the coordinated delivery of emergency medical services and the orderly transfer of patients to the ambulance service upon their arrival, the Class I ambulance provider shall enter into a mutual aid agreement with the first response organization. These agreements shall be in writing and shall address the following:

(a) The type of mutual aid assistance to be provided including [eg: ALS or BLS medical care, ALS or BLS medical first response and [extraction]];
(b) Response personnel including levels of training and provisions for in-service training where appropriate;
(c) Response vehicles including unit identifiers and the station or location from which the vehicles will be operated;
(d) How and what manner the mutual aid agreement shall be activated including dispatch and notification procedures;
(e) Radio and other communications procedures between the ambulance provider and the other response agency;
(f) On-scene coordination and scene control including medical direction when several agencies respond to same incident;
(g) Exchange of patient information, records, and reports;
(h) Terms of the agreement including effective date and provision for amendment or termination.

[8] Ambulances used in the provision of Class I ambulance services shall:
(a) Be maintained in good operating condition and in full repair;
(b) Be designed to provide for the medical care and transportation of patients;
(c) Comply fully with ambulance design criteria contained in "Federal Specifications for Ambulances", KKA-A-1822-D (11/94) (GSA federal specifications) in effect at the time the ambulance is manufactured, except for color and provider identification;
(d) Comply with KRS 189.910 through 189.950 regarding the use of service sirens.

[9] All Class I ambulance provider shall require that a certification decal or sticker be supplied by the manufacturer of newly purchased ambulances, indicating that the ambulance met GSA federal specifications on the date it was manufactured. The certification decal shall be located on a permanent surface, such as the ambulance oxygen tank compartment, or as later identified in a GSA federal specification revision.

[10] A Class I ambulance provider shall require, for units that are later modified, the conversion company to supply a letter to verify the modification meets or exceeds the GSA federal specification requirements, except for color or provider identification, as incorporated in the GSA federal specifications on the ambulance original date of manufacture.

[11] In addition to the GSA federal specifications, the following standards requiring compliance shall be maintained:
(a) The heating system shall maintain a temperature of not less than sixty-five (65) degrees Fahrenheit in the driver and patient compartments in winter weather conditions;
(b) The air conditioning system shall maintain a temperature of not more than eighty-five (85) degrees Fahrenheit in the driver and patient compartments in summer weather conditions; and
(c) The name of the ambulance provider shall appear on the exterior surface of the ambulance.

[12] A preventive maintenance program for each ambulance and its equipment shall be developed and implemented to keep them in optimum working order to protect the health and safety of the patient and ambulance personnel.

(b) Documentation shall be maintained by the ambulance provider to support evidence of periodic inspections or calibrations required for maintenance of the ambulance and its equipment.

[2] The interior of the ambulance and its equipment shall be checked after each use to ensure that they are kept and maintained in a clean and sanitary condition, unless precluded by emergency conditions.

[10] Nothing in this administrative regulation shall be construed to prevent a licensed Class I provider from providing medical first response and operating a prehospital care at or below the level for which they are licensed through the utilization of the following:
(a) Designated, provider owned response vehicles;
(b) Provider or personally owned supervisor vehicles;
(c) Employee personally owned vehicles.

[11] The licensed Class I provider shall determine the minimum equipment required for tiered response vehicles operating under their license.

[13] Vehicles used to provide medical first response services shall be insured by the employee or through the insurance policies of the Class I provider.

[14] A communications system shall be developed, coordinated, and maintained by each ambulance provider. The communication system shall meet the following requirements:
(a) Radio equipment used in emergency medical services vehicles shall be appropriately licensed through the Federal Communications Commission. Copy(s) of the current Federal Communications Commission license(s) shall be on file in the ambulance services office.
(b) If a local or regional dispatch center or 911 arrangement exists for all or part of the service area of a provider, the ambulance provider shall have a signed affiliation agreement with the dispatch center for coordination of emergency calls. If an ambulance provider is unable to secure a written affiliation agreement with the dispatch center, the ambulance provider shall have on file proof of a good faith attempt to obtain an affiliation agreement;
(c) All emergency medical services vehicles shall be equipped with two (2) way radio communication equipment capable, under normal conditions, of connecting the ambulance to the local emergency response center and the receiving hospital;
(d) A minimum of one (1) portable communication device per ambulance, on the ambulance radio frequency, shall be provided for personnel if away from the ambulance;
(e) A Class I provider shall have an acceptable plan to assure that all calls are promptly answered, and runs are dispatched in an expedient manner in accordance with subsection (1) of this section; and
(f) An ambulance provider shall provide orientation to all drivers and attendants related to communication, equipment on vehicle, vehicle fire extinguishers, response, mutual aid, cleaning of equipment, stretcher use, run sheets and other SOPs that have been established by the service [protocols that have been established by the service].

[15] In accordance with laws and procedures of the respective ambulance provider concerning patient destination and ambulance response and transport limitations, a patient shall be transported to:
1. The hospital emergency room of the patient's choice; or
2. The hospital emergency room chosen by the patient's physician.

[16] Nothing in this subsection shall preclude Class I provider personnel from transporting a patient to:
(a) A hospital emergency room, other than the one (1) chosen by the patient or his doctor, or an appropriate emergency medical facility chosen by the attendant, if the attendant determines that it shall be necessary in order to save the patient's life or limb.
2. A hospital emergency room or emergency medical facility other than the one (1) chosen by the patient or his physician if the Class I provider is operating under an approved local or regional diversion plan or medical triage protocols developed in conjunction with a consortium of physicians, hospitals, and ambulance providers, and which has been approved by the Kentucky Emergency Medical Services Council under KRS 211.952(5).

(b) The Kentucky emergency medical service ambulance run report form shall require ambulance service personnel to state:
1. The name and city of the hospital to which the patient was transported; and
2. If the destination was chosen by the:
   a. Patient; or
   b. Patient's physician; or
   c. Medical service personnel. If the destination was chosen by the medical service personnel, the attendant shall document the medical necessity on the form's case narrative section.

Section 5. Ground Ambulance Specifications. (1) Ambulances used in the provision of Class I ambulance services shall:
(a) Be maintained in good operating condition and in full repair without obvious problems relating to tires, exhaust, body integrity, warning devices, and mechanical reliability which would be recognized by the average lay person who is not an automotive mechanic.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(b) Be designed to provide for the medical care and transportation of patients;
(c) Have tires that meet the manufacturer's standards for the gross vehicle weight of the vehicle. No tire shall display exposed tire cord or have tread depth less than 2/32 on back tires and 4/32 on front tires when measured in any two (2) adjacent grooves at three (3) locations spaced equally around the tire. Tread tires shall not be used on ambulances.

(2) All ground ambulances shall meet or exceed the following minimum physical characteristics:

(a) Comply fully with ambulance design criteria contained in "Federal Specifications for Ambulances", KKK-A-1822 (GSA federal specifications) in effect at the time the ambulance is manufactured, except for color and provider identification.
(b) The Class I ambulance provider shall require that a certification decal or sticker be supplied by the manufacturer of newly purchased ambulances, indicating that the ambulance met GSA federal specifications on the date it was manufactured. The certification decal shall be located on a permanent surface, such as in the ambulance oxygen tank compartment, or as later identified in a GSA federal specification revision.
(c) A Class I ambulance provider shall require, for units that are later modified, the conversion company to supply a letter to verify the modification met GSA standard. Ambulance expenditure waiver requirements, except for color or provider identification, as incorporated in the GSA federal specifications on the ambulance original date of manufacture.

(3) In addition to the GSA federal specifications, the following state licensing requirements shall be maintained:

(a) The heating system shall maintain a temperature of not less than sixty-five (65) degrees Fahrenheit in the driver and patient compartments in winter weather conditions as determined by a standard automotive testing thermometer.
(b) The air-conditioning system shall maintain a temperature of not more than eighty-five (85) degrees Fahrenheit in the driver and passenger compartments in summer weather conditions as determined by a standard automotive testing thermometer.
(c) The name of the ambulance provider shall appear on both sides of the exterior surface of the ambulance. The name shall be the incorporated name or dba as it appears on the Kentucky ambulance license.
(d) The service may request approval from the cabinet to display an abbreviated or shortened version of their name, to serve as a unique identifier.
(e) This requirement shall not preclude a Class 1 provider from adding additional names from another entity on the ambulance due to a joint venture, however the name as licensed by Kentucky EMS shall be the larger, visible and readable by the public.

Section 6. Basic Life Support Personnel. (1) A BLS Class I provider shall be staffed to provide, at least two (2) attendants for each run. One (1) attendant shall remain with the patient in the patient compartment, at all times during transport;

(2) There shall be no more patients, personnel, and other persons than can be safely secured by means of seat safety belts or similar devices in the ambulance during transportation;

(3) All personnel shall be capable of performing their job duties, and shall not cause the patient or other personnel any undue jeopardy.

(b) The driver on each BLS or ALS ambulance run shall:

(1) Be at least eighteen (18) years of age, with current driver's [motor vehicle operator's] license;
(b) Have at least two (2) years of licensed driver [operator] experience;
(c) Complete an initial a defensive driving training program that is eight (8) hours long, developed by the ambulance provider or in conjunction with another agency or organization. (The defensive driving training program shall be repeated for each driver at least every four (4) years);
(1) The training program shall consist of two (2) [four (4)] hours review of driving a vehicle under emergency conditions; and
(2) Documentation shall be available to support training in at least the following areas:
(a) A two (2) hour review of KRS 189.910 through 189.950 regarding emergency vehicles.
(b) Performing forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose, for two (2) hours.
(c) A two (2) hour review of defensive driving techniques and procedures by hands-on experience or exposure by visual aids, such as video tapes, slides, or planned demonstrations.
(d) The refresher defensive driving training program shall be repeated for each driver at least every two (2) years with the course being four (4) hours in duration. One (1) hour for each of the following:
(i) The training program shall consist of one (1) hour review of driving a vehicle under emergency conditions;
(ii) Review of KRS 189.910 through 189.950 regarding emergency vehicles for one (1) hour; and
(iii) Forword and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose for one (1) hour; and
(iv) Review of defensive driving techniques and procedures by hands-on experience or exposure by visual aids, such as videotapes, slides, or planned demonstrations for one (1) hour.

(c) [65] One (1) ambulance attendant on each prehospital emergency or nonemergency BLS ground ambulance run shall be certified or licensed for one (1) of the following titles:
(a) Emergency medical technician (EMT);
(b) Paramedic;
(c) Registered nurse (RN) licensed by the Kentucky Board of Nursing (KBN); or
(d) Physician licensed by the Kentucky Board of Medical Licensure (KBML).

(d) [65] The second ambulance attendant, who may also be the driver, shall have certification or licensing for one (1) of the following:

(a) EMT-first responder;
(b) EMT-basic;
(c) Paramedic;
(d) RN licensed by the KBN; or
(e) Physician licensed by the KBML.

(7) Personnel who, on occasion may serve as an attendant or a driver shall meet the qualifications for both roles. Documentation shall be required in personnel files for personnel who:
(a) Serve as drivers only in a three (3) person crew; and
(b) Do not render any type of first aid or medical treatment; or
(c) Serve as patient care providers [attendants] only.

(7) An ambulance provider that has documented a lack of EMT-basics or EMT-first responders available to staff its ambulances may request a waiver on minimum staffing. The waiver request must be accompanied by an acceptable plan to address the shortage of EMTs in the area served by the ambulance provider. If a waiver is approved by the licensing agency, an attendant with drivers training as defined by this section, current CPRS and current AIDS certificate can be a second attendant that drives the ambulance. An ambulance so staffed in this manner may only be utilized for making scheduled, nonemergency transfers. The noncertified attendant shall be enrolled in an EMT-first responder or EMT-basic course within three (3) months of the hire date and become certified within six (6) months of enrolling the EMT-first responder or EMT-basic course.

Section 7. [6] Equipment and Supplies. A Class I ground ambulance used in the provision of emergency care and ambulance transport shall carry and be in full operational order, the following minimum equipment and supplies:

(1) Suction, ventilation, and blood pressure equipment:
(a) Fixed and portable suction apparatus including:
1. Rigid tonsillar catheters; and
2. Flexible catheters in the sizes six French (6F), 8F, 10F and 14F;
(b) Blood pressure cuff with infant and neonate sizes;
(c) Nasopharyngeal and oropharyngeal airway kits in sizes for adult and children with water-soluble lubricant [swallows-in-newborn, infant, child, and adult sizes]; and
(d) Adult, obese adult, infant, and child sphygmomanometer
cuffs with stethoscope. A permanently mounted sphymnomanometer shall not satisfy this requirement.

(2) Oxygen equipment:
(a) Fixed oxygen tank size H or M and portable oxygen tank [tanks with a filled minimum size D, with a filled secured spare portable tank, minimum size D (cylinder)];
(b) Pressure gauge and flow rate regulator (range of zero to fifteen (15) liters per minute);
(c) Oxygen humidifier and attachment for use on the fixed oxygen tank;
(d) Adaptor and tubing;
(e) Transparent-simple oxygen masks for adults, children, and infants;
(f) Transparent non-rebreather oxygen masks for adults and children;
(g) Nasal cannulas for adults and children; and
(h) Bandages and tape.

(a) Two (2) sterile universal dressings at least ten (10) inches by thirty (30) inches, compactly folded and packaged;
(b) Twenty-five (25) sterile gauze pads, various sizes (four-(4) inches by four-(4) inches);
(c) Ten (10) soft roller self-adhering bandages, various sizes;
(d) Four (4) rolls of adhesive tape, minimum of two (2) sizes;
(e) Five (5) [Ten (10)] triangular bandages with large safety pins; and
(f) Two (2) sterile burn sheets.

(a) Two (2) eye protector pads or shields or an approved substitute;
(b) Two (2) [One (1)] roll of aluminum foil; or an occlusive dressings (substitute approved by the licensing agency);
(c) Shears for bandages; and
(d) Hand-held flashlight, two (2) D cell minimum, capable of providing adequate lighting to assess a scene or a patient away from the ambulance;

(e) One (1) penlight [Two (2) penlights];
(f) Two (2) sterile obstetrical kits;
(g) One (1) bottle of [one (1)] bottle of [one (1)] bottle of activated charcoal (if in suspension, shall have current expiration date);
(h) Sterile irrigation fluids with current expiration date; if stocked on the ambulance, shall be obtained and maintained according to local, state, and federal statutes and regulations;
(i) Instant glucose with current expiration date;
(j) Cold packs;
(k) Bite kit.

Effective January 1, 2003, an automated external defibrillator (AED) will be required on all non-ALS ambulances licensed in the state of Kentucky.

(5) Splints and immobilization devices.

(a) Lower extremity traction splint, or equivalent as approved by the cabinet, for use in EMS training;
(b) Splints for arm, full leg, and foot including [e.g.:] inflatable-air splints, padded boards, ladder splints, vacuum splints, or acceptable substitute approved by the cabinet;
(c) Immobilization devices.

1. Short spine board with straps or other acceptable immobilization device, in adult size as determined by the cabinet; and
2. Adult and pediatric size long spine board with straps and cervical immobilization accessories; and
3. An orthopedic "scoop" stretcher or other full-body immobilization device as determined by the cabinet.

(d) Five (5) rigid, stiff cervical collars in five (5) different sizes including pediatric size (large, medium, small, adult, no-neck, and pediatric sizes);
(e) A CPR (short-arm) board or an acceptable substitute, as determined by the cabinet;[shall be provided for administering CPR];
(f) Safety supplies and equipment.

(a) Two (2) pound size or larger, ABC multipurpose fire extinguishers, approved by Underwriters Laboratories, Coast Guard, or Factory Mutual. One (1) shall be accessible to the driver [located in the driver's compartment or in an outside compartment on the driver's side] [driver compartment] and the other located in the patient compartment;
(b) Multiposition stretcher with wheels and a minimum of three (3) straps for securing the patient, and a mechanism to secure the stretcher while in transit;
(c) One (1) pocket mask with an isolation valve [per patient-attendant];
(d) One (1) clean scrub gown (or substitute, such as disposable coveralls), disposable mask, and gloves per patient attendant and driver;
(e) One (1) acceptable particulate filter face mask for attendant meeting federal standards set by the Occupational Safety and Health Administration (OSHA) and one (1) face mask per patient meeting OSHA standards for use during transport of patients known to be infected with tuberculosis;
(f) A means of cleansing the hands shall be provided, such as the provision of a solution or disposable towelettes;
(g) Hospital type disinfectants;
(h) Plastic bags for disposal of waste materials;
(i) Puncture resistant containers for disposal of sharp objects; if sharps are carried;
(j) Two (2) clean blankets, sheets, pillows, and pillowcases; and
(k) [Tissues or similar substitute; and
(l) An emesis container or similar substitute.

(7) Additional medical supplies and equipment desired for storage in the ambulance for authorized persons responding to the scene who are licensed or certified to provide medical skills that require training beyond the authorized EMT level may be considered for approval by the cabinet through the normal waiver process. [For eligibility, the ambulance provider shall include documentation to assure a system of accountability for the storage and handling of the additional medical supplies and equipment. The cabinet shall have the authority to deny approval of the arrangement if it is determined that the arrangement shall not be in the best interest of quality patient medical care or safety of the patient and personnel].

Section 8. [F:] Extrication and Other Rescue Equipment. (1) A Class I provider shall provide and maintain in full operational order the following minimum light acces and extrication equipment on the ambulance:

(a) Two (2) pairs of eye protection goggles;
(b) Two (2) pairs of heavy work gloves;
(c) Two (2) hard hats;
(d) [One (1) spring loaded window punch or acceptable substitute; and
(e) Six (6) reflective triangles or strobes, [at least ten (10) inches in height, flares] or equivalent warning devices.

(2)(a) For response to trauma scenes requiring extrication, a ground ambulance provider shall provide one (1) vehicle for the equipment, which need not be an ambulance, equipped with the following fully operational, more extensive access and extrication equipment:

1. Two (2) fifty (50) foot long seven-sixteenths (7/16) or one-half (1/2) inch static or dynamic nylon ropes;
2. One (1) pair of pliers, vise grip;
3. One (1) wrench, with adjustable, stable open end;
4. One (1) set of screw drivers, four (4) sizes, regular blade; and
5. One (1) set of screw drivers, four (4) sizes, Phillips type;
6. One (1) double action tin snip;
7. One (1) crow bar with pinch point;
8. One (1) hacksaw with twelve (12) blades; and
9. One (1) hammer, three (3) pound size;
10. One (1) fire axe;
11. One (1) wrecking bar;
12. One (1) bolt cutter, with one and one-fourth (1 1/4) inch jaw opening;
13. One (1) four (4) ton porta-power jack and spreader tool;
14. One (1) shovel, short handle, with pointed blade;
15. One (1) shovel, long handle, with pointed blade;
16. One (1) come-along tool or other acceptable wenching device; and
17. Two (2) fire proof blankets.

(b) A Class I provider which has a written agreement for this provision with a rescue squad, fire department, or an emergency service agency that meets the requirement established by the cabinet, shall not be required to provide the more extensive access and extrication equipment.
equipment on the ambulance.

Section 9. [8] Medical Directors. (1) A [Am-ALS] Class I provider shall have a written agreement with a physician medical director by January 1, 2002. All ALS and BLS services shall have a medical director for use of an AED and prescribed medicine as defined in KAR 13:120, Section 4(1) through (2)(q).

(2) A [Am-ALS] Class I provider shall provide evidence that the medical director shall:
(a) Be a physician licensed by the KBML;
(b) Meet the qualifications specified in 201 KAR 9:171, Section 2(6). Evidence shall be on file to verify that the qualifications of the medical director have been reviewed by the KBML to assure compliance with 201 KAR 9:171, Section 2(6);
(c) Have completed a residency program in emergency medicine approved by the Accreditation Committee for Graduate Education or be a physician who holds, or is in the process of completing, certification in advanced cardiac life support, and certification in advanced trauma life support or basic trauma life support, or have on file written approval from the KBML;
(d) Participate and oversee quality assurance of runs, training and practice of BLS or ALS skills;
(e) Assume responsibilities in accordance with 201 KAR 9:171, Section 2(1) through (5); and
(f) [tei] Assume other responsibilities as agreed upon between the medical director and the director of the ambulance service.

Section 10. [9] Class I ALS Providers. (1) A Class I ALS provider shall meet the requirements of Sections 1 through 9 [8] of this administrative regulation. It shall also meet the following additional requirements:
(a) Evidence in the form of a letter shall be on file to verify that the ALS written medical protocols have been reviewed by the KBML.
(b) ALS services shall be provided on a twenty-four (24) hour, seven (7) days a week basis. This provision shall may be met through a call system or by a written mutual aid agreement with another Kentucky licensed Class I ALS provider.
(c) In order to foster development of full-time ALS coverage in counties where ALS services have not been previously available, the licensing agency may grant a waiver of the twenty-four (24) hour, seven (7) day a week requirement to a new ALS provider.
(d) A waiver of this requirement shall not exceed a period of twelve (12) months. If requested by the ALS provider, and approved by the licensing agency, additional waivers may be granted for just cause, such as inability to obtain certified paramedics.
(2) In addition to the BLS equipment required in Section 6 of this administrative regulation, at the point of patient contact and transportation, a Class I ALS provider shall carry on each vehicle, and maintain in full operational order, the supplies and equipment as provided for in protocols established in subsection 1(a) of this section and shall include the following:
(a) An endotracheal intubation set consisting of:
   1. Laryngoscope handle in adult and pediatric sizes;
   2. Straight laryngoscope blades in sizes 0, 1, and 2;
   3. Curved laryngoscope blades in sizes 3 and 4;
   4. Extra batteries and bulbs for handles and blades; and
   5. Seven (7) different sizes of endotracheal tubes for oral and nasal placement in adult and pediatric sizes (uncuffed tube sizes 3.5, 4.5, 5.5, 6.5, 7.5, and 8.5, and cuffed tube sizes 5.5, 6.5, 7.5, 8.5, and 9.5);
(b) Stylettes in adult and pediatric sizes;
(c) Magill forceps in adult and pediatric sizes;
(d) One-half (1/2) inch wide tape or equivalent for securing endotracheal tubes;
(e) Water soluble lubricant for lubrication of endotracheal and nasotracheal tubes;
(f) Ateb tube or substitute;
(g) A portable monitor defibrillator that:
   1. Is capable of displaying a visual display of cardiac electrical activity;
   2. Is capable of providing a hard copy of cardiac electrical activity measure;
   3. Is capable of delivering direct current energy over a variable range which is suitable for pediatric and adult usage;
   4. Has adult and pediatric external paddle electrodes or pads, capable of utilization for immediate monitoring of heart activity and delivery of countershock in both the adult and pediatric patient;
   5. Is capable of being operated from internal rechargeable batteries;
   6. [5] Has synchronized countershock capability for cardioversion; this requirement applies only to equipment purchased after the effective date of this administrative regulation;
   7. Has a patient monitoring cable which has the following accessories:
      a. Electrode paste or gel or equivalent;
      b. Electrode pads with current date or equivalent for use with the patient monitoring cable; and
      c. One (1) additional roll of paper for hard copy printout.
(h) Needles, sterile, disposable: minimum of three (3) sizes shall be maintained in eighteen (18) to twenty-five (25) gauge;
(i) Syringes, disposable: minimum three (3) sizes shall be maintained in 1cc to 20 [50] cc;
(j) [Appropriate containers for the collection of blood samples;]
(k) [Tourniquet appropriate for use with venipuncture procedure;]
(l) [Dextrose (r) or equivalent for the measurement of blood glucose levels;]
(m) [Disposable, individually packaged antiseptic wipes;]
(n) [Intravenous fluids as required by the KBML or protocol, macrodrip and microdrip fluid sets, extension sets and accessory items;]
(o) [IV] Intravenous catheter over needle devices in fourteen (14) [twelve (12)] to (24) gauge;
(p) [Butterfly needles in nineteen (19) and twenty-three (23) gauge;]
(q) [Extra] Intravenous needles;
(r) [Pediatric drug dosage tape or equivalent which shall provide easy reference for pediatric and infant treatment and drug dosages;]
(s) [Meconium aspiration device or equivalent consistent with service protocols;]
(t) Nasogastric tubes in size S5, S8, pediatric sizes, sizes 10 to 18 French adult, and sizes S5 or S8 cc catheter tipped syringes or equivalent;
(u) Water soluble lubricant; and
(v) Infant or neonate suction apparatus.
(3) A Class I ALS provider shall stock and maintain drugs and medications as required by:
(a) Protocols established in accordance with Section 9 [8] of this administrative regulation;
(b) Local, state, and federal statutes and regulations;
(c) [4] All drugs must be maintained at a temperature range of fifty-nine (59) degrees Fahrenheit to eighty-six (86) degrees Fahrenheit.
(5) Controlled drugs shall be stored in a locked compartment or equivalent approved by the cabinet. An ambulance provider which stores and utilizes controlled substances shall have protocols approved by the cabinet's drug control branch.
(6) [5] With the exception of the supplies or equipment listed in subsection (2)(o), (q), (r), and (u) of this section, and supplies and equipment listed in subsection (2), (3), and (4) of this section which require specific sizes to accommodate adult, pediatric, and infant patients, nothing in this administrative regulation shall be construed to require a Class I ALS provider to maintain the equipment (required in subsection (2)(o), (q), (r), and (u) of this section) if the equipment in this section is not required by the medical protocols of the ALS Class I ground ambulance provider.
(7) No ambulance or response vehicle operated by a Class I ground ambulance provider shall be marked with the words "Advanced Life Support," "Paramedic," or similar words which convey essentially the same meaning on its exterior surface visible to the public unless it meets all requirements of this section with regard to equipment, supplies and staffing.

(2) If medical first response emergency medical service vehicles are utilized by the Class I ALS provider, the vehicles shall:
(a) Be staffed by a minimum of one (1) person who has minimum training and current certification as a paramedic.

(b) Have available the minimum equipment and supplies required by Sections 6(7), 7, 8, and 10(9) of this administrative regulation. This may be accomplished through the coordinated response of an ambulance from a separate ambulance provider under the provisions of a written mutual aid agreement on file with both providers.

Section 12. GG] Class I Specialized Providers. (1) A Class I provider which does not provide prehospital emergency care to the general public, such as industrial based providers, neonatal transfers, and interfacility transfers requiring BLS or ALS shall be licensed as a Class I specialized provider.

(2) A BLS Class I specialized provider which complies with Sections 1 through 9 [7-9] of this administrative regulation, if applicable, and an ALS Class I specialized provider which complies with Sections 2 and 10 [8-10] of this administrative regulation, must, with prior approval by the licensing agency, be allowed certain variances.

(3) A specialized license shall specify the limitations of the provider which have been approved by the cabinet;

(4) In reference to Section 4(1) of this administrative regulation, a Class I specialized provider shall not be required to provide emergency care and ambulance transportation on a twenty-four (24) hour, seven days a week basis.

(5) In reference to Section 4(16)(a) of this administrative regulation, a Class I specialized provider shall not be required to have an affiliation agreement with a local or regional dispatch center or 911 service.

(6) A BLS Class I specialized ground ambulance provider shall be required to meet the requirements, supplies, and personnel requirements as listed in Sections 6 through 9 [7-9] of this administrative regulation, with certain waivers recommended by the EMS Council and approved by the cabinet.

(7) An ALS Class I specialized ground ambulance provider shall be required to meet the equipment, supplies, and personnel requirements as listed in Sections 6 through 11 [7-11] of this administrative regulation, with certain waivers recommended by the EMS Council and approved by the cabinet.

A Class I specialized provider desiring variations in equipment, supplies, personnel shall submit the request in writing for consideration and approval by the cabinet.

Section 13. Request for Waiver. (1) A Class I ambulance provider licensed or contemplating licensure under this administrative regulation may request in writing to the cabinet through the Kentucky EMS Council that certain provisions of this article be waived.

(2) A request shall justify that a proposed waiver, if approved, shall not jeopardize the quality of patient care.

(3) The Kentucky EMS Council may recommend approval of a request based on at least one (1) of the following:

(a) Circumstances where public health and safety is a factor;

(b) Extenuating or mitigating circumstances that warrant consideration to assure the delivery of emergency medical services;

(c) Substitution of equipment authorized by this article or additional equipment, or

(d) Testing of new procedures, techniques, and equipment in a pilot study authorized by the Kentucky EMS Council and supervised by the designee of Kentucky EMS Council.

(4) The licensing agency in consultation with the Kentucky EMS Council shall establish time limits and conditions on all approved waivers.

(5) The licensing agency in consultation with the Kentucky EMS Council shall review each approved waiver annually and either continue or revoke each approved waiver.

Section 14. [2] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) [Form EMS-6A, "Kentucky Emergency Medical Service Ambulance Run Report"] (9/84).

(b) [Form EMS-8, "Kentucky Emergency Medical Services Ambulance Run Report"] (9/84).

(c) [Form EMS-8B, "Kentucky Emergency Medical Services Ambulance Run Report"] (9/84).


(2) This material may be inspected, obtained, or copied at the Office of the Commissioner, 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, Commissioner
JOHN WALKER, Attorney General
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: May 12, 2000
FILED WITH LRC: May 12, 2000 at 4 p.m.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at ARRS, July 11, 2000)

902 KAR 14:090. Air ambulance service providers.

RELATES TO: KRS 211.950 to 211.955, 216B.010 to 216B.130, 216B.900(1)(2)


NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 99-666, effective July 2, 1999, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services] KRS 216B.042 requires the Cabinet for Health Services to regulate health facilities and health services. KRS 211.952(2)(c) [as added-in-the-1999-Regular-Session] requires the cabinet to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. This administrative regulation sets forth the licensure and operation requirements for air ambulance providers.

Section 1. Definitions. (1) "Air ambulance" means a helicopter or fixed-wing aircraft that is specially designed, constructed, or has been modified and equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated, who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being. [Air-ambulance service is defined in 902 KAR 14:076.]

(2) "Air medical communications specialist (ACS)" means an emergency medical technician (EMT) certified by the cabinet acting in the air medical communications environment with training appropriate to the mission of the air ambulance service who shall have documented training in the following areas:

(a) Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) regulations pertinent to air ambulance operations;

(b) Air medical radio communications;

(c) Flight coordination and utilization;

(d) Navigation and weather interpretation;

(e) Flight following; and

(f) Emergency procedures.

(3) "Airline transport pilot (ATP)" means a pilot who has received a certificate issued by the FAA which denotes the highest level of achievement a pilot may attain.

(4) "Advanced life support (ALS)" is defined in 902 KAR 14:070.

(5) "Basic life support (BLS)" is defined in 902 KAR 14:070.

(6) "FAA" means the Federal Aviation Administration.

(7) "FAR" means federal aviation regulations.

(8) "Flight nurse" means a registered nurse licensed by the Kentucky Board of Nursing (KBN) acting in the air medical environment with training appropriate to the mission of the individual air ambulance service who shall have documented service specific training in the following areas:

(a) Altitude physiology;

(b) Aircraft safety;

(c) Survival techniques; and

(d) Flight operations.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(9) "Flight paramedic" means a paramedic certified by the Kentucky Board of Medical Licensure (KBML) acting in the air medical environment with training appropriate to the mission of the individual air ambulance service. In addition, a flight paramedic shall have documented service specific training in the following areas:
(a) Altitude physiology;
(b) Aircraft safety;
(c) Survival techniques; and
(d) Flight operations.
(10) "Heipad" means a designated area, usually with a prepared surface, on a helicopter, airport, landing or take-off area, apron or ramp, or movement area used for take-off, landing or parking helicopters.
(11) "IFR" means instrument flight rules.
(12) "Landing zone" means a prepared or unprepared area where a helicopter will be landing. The landing zone shall:
(a) Be large enough to accommodate the aircraft being used;
(b) Be free of dangerous obstacles;
(c) Have an approach and departure path; and
(d) If landing at night, have a ground light source or sources marking boundaries.
(13) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.
(14) "PIC" means pilot in command.
(15) "SIC" means second in command.
(16) "VFR" means visual flight rules.

Section 2. Air Ambulance Licensing. (1) A person shall not provide, advertise, or profess to engage in air ambulance services in Kentucky [air-ambulance services] without having first obtained a certificate of need from the cabinet and a license from the licensing agency.
(2) The license shall designate the specific Kentucky geographic area to be served and shall be displayed in a prominent place at the service base station.
(3) The licensee shall designate the number of aircraft to be operated and provide the licensing agency with identifying information such as:
(a) Type of aircraft;
(b) Serial number; and
(c) Aircraft identification.
(4) Additional aircraft shall not be operated until the licensing agency has been notified and has verified that the aircraft meets the requirements of this administrative regulation. The provider shall not be precluded from utilizing a similarly equipped aircraft [air-ambulance services] without notifying the licensing agency if the primary aircraft is out of service for maintenance.
(5) The air ambulance shall be licensed [permitted] to the primary service maintaining ownership or leasehold.
(6) An individual aircraft may be designated for use by other licensed services so long as a memorandum of understanding between the primary aircraft owner/operator exists concerning replenishment of equipment and supplies, required maintenance, and proper reimbursement procedures.
(7) The licensee shall inform the licensing agency of:
(a) Arrangements for securing aircraft for temporary use[, if necessary, prior to initial licensure]; and
(b) Be notified the next business day of an aircraft change if the primary aircraft is out of service for maintenance or if there is a need for use of a temporary aircraft.
(c) Changes which occur after initial licensure, such as change of service directors or location where aircraft shall be based.

Section 3. Standards for the Operation of an Air Ambulance. (1) An air ambulance provider shall:
(a) Have a physician medical director in accordance with the applicable requirements of Section (6) of this administrative regulation;
(b) Have established and advertised appropriate utilization criteria or protocols of air transport which have been reviewed and approved by the Kentucky Emergency Medical Services Council;
(c) Have an ongoing quality management program as outlined in Section 6(1) of this administrative regulation.
(d) Have a mission statement which defines the precise geographical service area of the service, transport patient population and availability of services.

(2) [44] An air ambulance shall not be utilized for the transport of a patient unless:
(a) A request for transport has been made; and
(b) The physician medical director or medical control physician, has reviewed the known medical information of the patient and has deemed that air ambulance transportation of the patient meets the utilization criteria or protocol of the air ambulance provider [service; or
(c) The utilization protocol was used to determine appropriateness of air transport.
(3) [69] An air ambulance service shall develop, implement and maintain records of a review process, quality improvement program, or other form of regular review of air ambulance utilization.
(a) The utilization review shall include an examination of compliance with the air transport criteria for appropriate utilization of air transport. Compliance utilization will be based on one (1) of the following:
1. The extent or severity of patient injury or illness;
2. Conditions that may have greatly delayed or prevented ground ambulance transportation, to the detriment of the patient; or
3. The need for a higher level of care than was available at the referring facility or location or during ground ambulance transportation to the receiving facility.
(b) A semiannual cumulative report of the findings of the review of air ambulance utilization shall be on file at the air ambulance service base station.
(4) [69] A rotor wing air ambulance service operator shall provide proof that it:
(a) Complies with FAR pertaining to maintenance inspections, flight, and duty time;
(b) Complies with FAA and FAR required maintenance activities; and
(c) Holds FAR required air-ambulance operations specifications.
(5) [FP] A fixed wing air ambulance service operator shall provide proof that it:
(a) Complies with FAR which pertain to maintenance inspections, flight and duty time;
(b) Complies with FAA and FAR required maintenance activities; and
(c) Holds FAR required air-ambulance operations specifications.

Section 4. Air Ambulance Aircraft. (1) Fixed and rotor wing air ambulance aircraft shall:
(a) Have an entry that allows patient loading and unloading without tilting the patient greater than thirty (30) degrees from the horizontal axis;
(b) Be climate controlled to prevent temperature extremes that would adversely affect patient care;
(c) Be configured in such a way that all medical personnel shall have access to the patient in order to begin and maintain both basic and advanced life support;
(d) Have interior lighting adequate to ensure complete observation of the patient;
(e) Have the capability of shielding the cockpit from light in the patient care area during night operation;
(f) Have an electric inverter, with two (2) outlets, to convert direct current (DC) to alternating current (AC) for operation of specialized equipment, such as an isolate or intra-aortic balloon pump;
(g) Have equipment, stretchers, and seating;
1. Arranged so as to block rapid egress by air ambulance personnel or patients; and
2. Affixed or secured in FAA approved racks, compartments, or strap restraints which meet FAR "G" loading requirements; and
(h) Have a patient stretcher or litter which:
1. Has the capability to raise the head of the patient, and
2. Has appropriate devices to secure the patient to the stretcher.
(2) Fixed wing aircraft shall:
(a) Be [a twin-engine type]; and
(b) Be pressurized if patient flights are to exceed 6000 feet mean sea level; and
(b) Provide proof of an FAR Part 135 certificate with an FAR required air ambulance specification.
Section 5. Air Ambulance Transportation Flight Personnel. (1) The rotor wing pilot in command shall possess commercial rotorcraft certification or ATP certification and a minimum of 2,000 rotorcraft flight hours as pilot in command.

(2) A rotor wing pilot shall:
(a) Be trained in accordance with operators FAR Part 135 air ambulance operations specifications;
(b) Have a minimum of ten (10) flight-specific type of aircraft used by the provider as follows:
   1. Have factory school or equivalent ground or flight training;
   2. Have twenty-five (25) hours as pilot in command in the specific aircraft type prior to performing EMS missions;
(c) Have completed a check ride which meets FAR part 135 requirements; and
(d) Have five (5) hours local area orientation which shall include mission specific night orientation of at least two (2) hours flight time; and
(e) Be specifically trained and experienced in flying the terrain and conditions unique to the flight program;
(f) Be oriented to the health care system of the hospital; and
(g) Have recurrent training on an annual basis which shall include:
   1. A factory review, or FAA approved equivalent, of the aircraft and systems; and
   2. A government school refresher and competency training in emergency procedures.
(3) The fixed wing pilot shall be trained in accordance with operators FAR Part 135 operations specifications.

(4) Possess a commercial pilot certificate with airplane, multi-engine land, and instrument ratings or an ATP certificate with airplane and multi-engine land ratings and shall:
(a) Be trained in the specific type of aircraft used by the provider as follows:
   1. Have manufacturer's recommended aircraft training or approved equivalent; and
   2. Have completed a check ride which meets FAR requirements.
(b) The PIC shall have twenty-five (25) [868] hours as pilot in command in the specific aircraft and type prior to performing EMS missions; and
(c) Be readily available within a service defined call-up time to insure expeditious and timely response.
(d) Must have recurrent training every twelve (12)-months which shall include:
   1. A factory review of the aircraft and their systems; and
   2. Appropriate curriculum as required by FAR.
   (d) [968] If flying IFR, a PIC shall have a minimum of 250 hours of instrument flight time which shall include:
   1. 100 hours of night instrument flight time; and
   2. No more than 125 hours of simulated instrument flight time.

Section 6. Air Ambulance Medical Personnel. (1) An ALS air ambulance provider shall have a written agreement with a physician or medical director who shall be licensed to practice medicine or osteopathy in the state in which the air medical service is based;
(a) Assume responsibilities in accordance with the provisions of 201 KAR 9:171, Sections 2(1) and (2);
(b) Provide medical consultation to and supervision of the medical flight personnel in accordance with the written agreement between the air ambulance service provider and the physician medical director;
(c) Grant authority for certified medical flight personnel to perform certain skills and procedures according to protocols;
(d) Retain and exercise authority to limit, suspend, or terminate approval of air ambulance medical flight personnel to perform skills and procedures previously granted under the established protocols;
(e) [968] In his absence, approve or transfer authority for a supervising physician to temporarily act on the behalf of the air ambulance service during the period of absence.
(f) Participate in the continuing education of the air ambulance service medical flight personnel;
(g) Participate in the development of monthly quality improvement plans for the air ambulance service which shall include the:
   1. Reason for and the appropriateness of air patient transport; and
   2. Mechanism or seriousness of injury or illness;
3. Interventions performed or maintained;
4. Transport outcome of the patient; and
5. Timeliness of the transport.

(h) Have operational knowledge of communications equipment and procedures.

(i) Review issues regarding prehospital and interhospital transport.

(j) Perform utilization reviews of flight program resources.

(k) Maintain working knowledge of disaster planning and mass casualty incident management.

(l) Must have knowledge or training in the basic principles of research.
(2) If flight paramedics are utilized, an ALS air ambulance provider shall provide evidence that the qualifications of the medical director and medical protocols have been reviewed and recommended for approval by the Kentucky Emergency Medical Services Council and its delegated practice medical standards committee to assure compliance with the requirements of this section, and 201 KAR 9:171, Sections 2(6). After review by the council, all information shall be forwarded to the Kentucky Board of Medical Licensure for their approval.
(3) The medical director shall have completed a residency program in emergency medicine approved by the Accreditation Committee for Graduate Education or shall:
(a) Be a physician who holds, or is in the process of completing certification in the American College of Surgeon's Advanced Trauma Life Support;
(b) Be a physician who holds, or is in the process of completing certification in the American College of Emergency Physician's Basic Trauma Life Support or its equivalent; or
(c) Be a physician who has on file written approval from the licensing agency or lead agency which has been granted based on the physician's ability to document qualification by:
   1. Patient population;
   2. Experience; and
   3. Current competency in patient care consistent with the missio. statement of the air ambulance service provider along with the following:
   a. The ability to recognize and stabilize critical patients; and
   b. Knowledge of emergency medical service and the extensive hospital referral systems including dispatch, communications, laws, regulations, and overall system operations.
(4) The medical director shall have on file documentation to verify completion of:
(a) Two (2) hours of education in altitude physiology and stressors of flight; and
(b) Two (2) hours of recurrent training in a relevant subject [altitude physiology] biannually.
(5) ALS flight medical personnel shall attend flight orientation training prior to acting as primary medical personnel. Flight orientation training shall include:
(a) Two (2) hours of altitude physiology;
(b) Aircraft specific operations and in-flight safety;
(c) Emergency egress and survival training;
(d) Scene safety;
(e) Use of extrication equipment;
(f) Scene triage;
(g) State EMS standard; and
(h) Communication equipment utilization and emergency procedures.
(6) Rotor wing patient missions shall have one (1) flight nurse and one (1) flight paramedic in attendance in the patient care area. A variance from the flight paramedic requirement, necessitated by staffing or patient care requirements shall [not] be permitted only after the medical director or their designee approves the action.
(7) [unless prior written approval is granted by the licensing agency.
(7) "ALS fixed wing air ambulance service providers shall have physicians and medical directors who meet the requirements as describe in subsection (1) of this section.
(9) ALS fixed wing patient missions shall have at least two (2) medical providers.
(8) The first patient attendant on an ALS fixed wing patient
mission shall be:
(a) A flight nurse; or
(b) A licensed registered nurse qualified by specific patient population, experience, and current competency in emergency and critical care.

(9) [498] The second patient attendant on an ALS fixed wing patient mission shall be:
(a) A licensed registered nurse qualified by specific patient population, experience, and current competency in emergency and critical care;
(b) A flight paramedic;
(c) A certified or registered respiratory therapist qualified by specific patient population, experience, and current competency in mission specific patient care; or
(d) A physician licensed and qualified by relevant training, experience, and current competency in mission specific patient care.

(10) [499] A staffing variance necessitated by staffing or patient care requirements shall not be permitted unless prior [written] approval is granted by the medical director or their designee [licensing agency].

(11) [498] BLS fixed wing patient missions shall have, in addition to the pilot, at least two (2) EMTs with air medical training consisting of:
(a) Flight physiology;
(b) Aircraft safety;
(c) Survival techniques;
(d) Two (2) hours of altitude physiology;
(e) Aircraft specific operations and in-flight safety;
(f) Emergency egress and survival training;
(g) State EMS standards;
(h) Communication equipment utilization; and
(i) Emergency procedures.

Section 7. Air Ambulance Equipment and Supplies. (1) Air ambulance equipment and supplies shall be maintained according to recommendations of the manufacturer.

(2) Equipment shall be functional at all altitudes and shall not interfere with aircraft avionics. Conversely, avionics shall not interfere with medical equipment operations.

(3) The following BLS equipment and supplies shall be required on fixed and rotary wing air ambulances:
(a) Fixed [and portable] suction apparatus including:
1. Rigid flexible suction tubing;
2. Flexible catheters French sizes;
(b) Hand operated mask ventilation units in 1000cc and 250 ml [adult; child; and infant] sizes capable of use with oxygen; and
(c) [e] Oral-pharyngeal airways in adult, child, and infant sizes;
(d) Nasopharyngeal airways in adult, child, and infant sizes;
(e) Adult, obese adult, child, and infant oropharyngometer cuffs. A permanently mounted oropharyngometer shall not satisfy this requirement;
(f) [f] Adult [and pediatric] stethoscopes;
(g) [d] Fixed and portable oxygen system to include:
1. Pressure gauge and flow rate regulator with a range from zero to fifteen (15) liters per minute;
2. Adapter and tubing;
3. Transparent nonrebreather oxygen mask in adult and pediatric [children] sizes; and
4. Nasal cannulas in adult and pediatric [children] sizes;
(h) [e] Bandages and tape;
(1) [f] Two (2) Sterile bulky absorbent dressings;
(k) [g] Six (6) Sterile gauze dressings four (4) inches by four (4) inches;
(l) [h] Four (4) Soft roller self-adhering bandages in various sizes;
(m) [i] Four (4) Rolls of adhesive tape in least two (2) sizes;
(n) [j] Two (2) Triangular bandages with large safety pins;
(o) [k] Two (2) Sterile burn sheets [sheets];
(p) [l] Splints and spinal immobilization devices which shall include:
1. One (1) lower extremity traction splint;
2. Securing straps;
3. One (1) short spineboard or other upper spinal immobilization or extrication device;
4. One (1) full body spinal immobilization device; and
5. Rigid cervical collars with tracheal access in large, medium, [and] small adult and pediatric sizes;
(q) [m] Safety equipment and supplies which shall include:
1. An ABC multipurpose fire extinguisher which meets the FAA requirements for each specific aircraft and configuration;
2. One (1) pocket mask with oxygen inlet and isolation valve;
3. One (1) set of personal protective clothing and devices per medical personnel;
4. [4] Towelettes, solution or other similar supplies for cleansing of the hands;
5. [5] Plastic bags for disposal of waste material;
6. [6] Puncture resistant container for disposal of sharps objects; and
(q) [n] Two (2) full sets of clean and appropriate linen.
(r) [o] An emesis container or similar substitute;
(s) [p] Environment, terrain, and mission specific rescue and survival supplies;
(t) [q] Stretcher or litter with:
1. Head raising capabilities;
2. An FAA approved aircraft specific mechanism for securing the stretcher or litter in the aircraft during transit; and
3. An FAA approved aircraft specific patient to stretcher securing mechanism.

(4) The following ALS equipment will be available for use on both rotary and fixed wing aircraft while responding to and transporting an ALS patient:
(a) Endotracheal intubation set to include:
1. Adult laryngoscope handle with spare bulb and batteries;
2. Laryngoscope blades, curved 3 & 4;
3. Laryngoscope blades, straight 0, 1 and 2;
4. Endotracheal tubes to include:
5. Pediatric uncuffed 2.5 through 5.5;
6. Adult cuffed 5.5 through 8.0;
7. Stylettes;
8. Adult size; and
9. Pediatric size;
10. Magill forceps;
11. One (1) adult; and
12. One (1) pediatric;
13. One (1) half inch twill tape or substitute;
14. Larynx scope;
15. One (1) bite block;
16. Advanced airway surgical tray to include:
17. Scalpel;
18. Hemostats;
19. Sutures;
20. Sterile barriers;
21. Surgical scissors;
22. Skin disinfectant; and
23. Chest tubes;

(i) A; and
(j) Pedriatric sizes; and
(k) Adult sizes.

(13) Portable monitor defibrillator with:
(a) Visual display;
(b) Hard copy;
(c) Variable range for adults and pediatrics;
(d) External paddles for adults and pediatrics;
(e) External rechargeable batteries;
f) Synconized countershock;
g) Patient monitoring cable; and
(h) Electrode pads or paste.

14. A variety of needles, syringes, I.V. equipment to include:
(a) Fluids (normal saline), (lactated ringers) and (DSW);
(b) Intravenous needle;
c) Microdrip set;
d) Macrodrop set;
e) Adult anacathes; and
f) Pediatric anacathes.

15. Central line access equipment (specify by protocol);

16. Nasogastric tubes;
(a) Adult size; and
(b) Pediatric size.

17. Pediatric drug dosage reference;
18. Neonate or infant suction apparatus; and
19. Approved drug list with medications present and within expiration date.

Section 8. ALS Air Ambulance Service Providers. (1) A rotor wing ALS air ambulance service shall meet the applicable requirements of Sections 1 through 7 of this administrative regulation. In addition, it shall also meet the following requirements:

(a) Evidence shall be on file to verify that the ALS written protocols have been reviewed by the appropriate agency;
(b) At the point of patient contact and transportation the air ambulance provider shall:
   1. Carry and maintain in full operational order, the supplies and equipment as provided in [protocols established in paragraph (a) of this subsection, as required in 201 KAR 5:172.] Section 7 of this administrative regulation.
   2. Stock and maintain minimal medications needed for resuscitation, advanced cardiac life support, and any other medications as prescribed for.
      a. Protocols established in accordance with paragraph (a) of this subsection;
      b. Local, state and federal statutes and regulations.
   (2) Controlled drugs shall be stored in a locked compartment or equivalent as approved by the cabinet.
   (3) An air ambulance service which stores and utilizes controlled substances, shall have protocols approved by the cabinet's Drug Control Branch.

Section 9. Air Ambulance Services Communications. (1) An air ambulance service shall comply with FAR specifications for flight following and position plotting by a provider based or maintained communication center. The communication center shall be equipped with communications equipment and staffed by a properly trained ACS to receive and coordinate all calls as provided for by FAR. If providing fixed wing service, this requirement may be met by filing an FAA flight plan.

(2)(a) Rotor wing air ambulance service aircraft shall have radio capability to communicate:
   1. Ground-to-air;
   2. Air-to-air; and
   3. Air-to-ground.
(b) Rotor wing aircraft radio capability shall include two (2) way radio communication equipment that is:
   1. Compatible with the statewide ambulance to hospital emergency radio communication system; and
   2. Capable of communicating with:
      a. Ground personnel to properly coordinate the landing;
      b. Physician medical director or medical control physician directing patient management; and
      c. Primary medical responders on the ground who may be caring for the patient.
(3)(a) Fixed wing air ambulance service aircraft shall have radio capability to communicate:
   1. Ground-to-air;
   2. Air-to-air; and
   3. Air-to-ground.
(b) Fixed wing aircraft radio capability shall include two (2) way radio communication equipment capable of communicating with ground personnel to properly coordinate the landing.

Section 10. Air Ambulance Records and Reports. (1) An air ambulance provider shall keep accurate records and reports concerning the transportation of an emergency patient which shall be maintained at the headquarters of the licensee and shall be available for periodic review as deemed necessary by the licensing agency.

(a) A [An] provider shall provide a full record to the receiving facility of any treatment administered at the pickup location or during transit. Required records and reports shall include a [the "Kentucky Emergency Medical Service Ambulance Run Report," Form EMS-5A, incorporated by reference, or equivalent] provider specific transport record based upon an approved data set that is acceptable to the licensing agency.

(3) Copies of completed run report forms shall be kept as required by KRS 216B.410(1) and guidelines established by the licensing agency in a manner of confidentiality and safekeeping for a minimum of five (5) years from the date on which the service was rendered, or in the case of a minor, until five (5) years after the minor reaches eighteen (18) years of age.

(4) The third copy of the run form, or electronic equivalent, shall be forwarded to the cabinet within thirty (30) days following the end of the month in which the run occurred.

(5) Personnel files on each attendant shall be maintained for:
   (a) Five (5) years, or longer if specified in local government archives approved schedules, following termination or retirement from employment; or
   (b) Five (5) years following the demise of the employee.
(6) [66] Individual attendant personnel files shall contain:
   (a) A resume of an employee's training and experience; and
   (b) Current credentials including proof of [GPR certification, or] EMT or paramedic certification with corresponding numbers and expiration dates, or nursing or physician license;
   (c) A preemployment criminal records check for each medical attendant added to the service after the effective date of this administrative regulation;
   (d) Health records to include:
      1. Written evidence of a preemployment health assessment having been conducted by a physician or a licensed advanced registered nurse practitioner (ARNP) stating the employee is capable of performing assigned job duties; and
      2. Health records which meet the requirements of KRS 216B.410(2).
(7) [77] An air ambulance provider shall maintain and follow written administrative, personal, medical, and other operational policies and procedures that are reviewed on an annual basis by the air ambulance provider in order to assess their effectiveness. The policies and procedures shall be developed to include the following areas:
   (a) Organizational structure, staffing, and allocation of responsibility and accountability;
   (b) Mutual aid agreements and agreements with other ambulance providers;
   (c) Personnel performance guidelines; and
   (d) A plan to assure that a continuing education program shall be provided for its staff. The program shall include:
      1. Written documentation [Evidence] of continuing education for staff regarding acquired immune deficiency syndrome (AIDS) and infection control, including the handling of infectious waste in accordance with Centers for Disease Control guidelines;
      2. A written plan for response to, and the protection and decontamination of, the patient, aircraft, equipment, and staff if called upon to transport a patient exposed to hazardous chemicals;
      3. A written plan for assessing all other staff continuing education needs, with a coordinated development of methods to meet those needs; and
      4. The maintenance of training rosters or other written records to support continuing education conducted by, or at the request of, the licensee.
   (e) A written plan for the quality assessment of patient care including a periodic review of run report forms, and evaluation of staff performance related to patient care;
   (f) Written policies and procedures concerning:
      1. Aircraft maintenance;
      2. Standard operating procedures (SOPS);
      3. Patient protocols;
      4. Transport response and limitations; and
      5. Patient destination.

Section 11. Incorporation. [Material incorporated by Reference] (1) The following material is incorporated by reference:

(a) [2000] [and may be inspected, obtained, or copied at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621; 8 a.m. to 4:30 p.m., Monday through Friday;]


(b) [63] [1995, United States Department of Transportation Advisory Circular No. 135-14A, Emergency Medical Services: Helicopters (EMS-H)].

- 542 -
(2) This material may be inspected, copied, or obtained at the Office of the Commissioner, 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, Commissioner
JOHN WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED BY AGENCY: May 12, 2000
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CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARLS, July 11, 2000)

922 KAR 1:350. Family preparation [section].

RELATES TO: KRS 199.482, 199.471, 600.020, 605.090-605.110, 605.120-605.130, 605.160, 42 USC 671 (streeect)

NATIONAL AUTHORITY: KRS 194B.050(1) [194.050], 199.472, 605.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) authorizes [194.050] provides that the Secretary for the Cabinet for Families and Children and [promulgate] shall adopt administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. [In—compliance—with] KRS 199.472 and 605.150 authorize the cabinet to promulgate [the Department for Community-Based Services has promulgated] administrative regulations to establish the process of determining an individual’s capacity for foster or adoptive [adoptive or foster] parent. [pursuant to KRS 605.699 through 605.740]. This administrative regulation establishes criteria for resource homes caring for foster or adoptive children, [has been promulgated in compliance with KRS 19A.221 that requires a separate administrative regulation for each topic of general subject matter.]

Section 1. Definition. Definitions. (1) "Cabinet" means the Cabinet for Families and Children.

(2) "Resource home" means a home in which a parent has been certified to:

(1) [be] Provide foster care services for a child placed in out-of-home care by the cabinet;

(2) [be] Adopt a child:

(a) [be] Whose parental rights have been terminated; and

(b) [be] Is under the custodial control of the cabinet;

(3) [be] Provide respite service for a family approved to care for a child under the custodial control of the cabinet; or

(4) [be] Provide any combination of the services described in subsections (1) through (3) of this subsection [parentheses (a) through (c) of this subsection].

Section 2. Out-of-home Placement in a Resource Home. (1) Except in the placement of a sibling group or approval by the service region administrator, no more than six (6) children, including children under the custodial control of the cabinet and the parent’s own children living at home, shall reside in a resource home that provides only foster care services.

(2) If more than six (6) children are placed in a resource home that provides only foster care services, a plan shall be established within ten (10) working days of placement. The plan shall [and] document the:

(a) Reason the placement is in the best interest of the child; and

(b) Provision of specific support services by the cabinet.

(3) No more than three (3) children under age two (2), including children placed in out-of-home care by the cabinet and the parent’s own children, may reside at the same time in a resource home that provides only foster care services.

Section 3. General Requirements for a Resource Home Parent. (1) Unless approved by the service region administrator, a resource home applicant shall be at least twenty-one (21) years of age. (2) A resource home applicant between eighteen (18) to twenty-one (21) years of age may be approved as a resource home parent if:

(a) The individual is related to a child under the custodial control of the cabinet;

(b) The relative can meet the needs of the child; and

(c) Cabinet staff determines relative placement is in the best interest of the child.

(3) Except pursuant to approval by the service region administrator of a resource home applicant that has been married for more than one (1) year but less than two (2) years and whose relationship has been continuous for at least two (2) years prior, a married applicant shall be married for at least two (2) years prior to approval.

(4) If related to a child under the custodial control of the cabinet, a resource home applicant who has been married for less than one (1) year may be approved if the family services office supervisor determines relative placement is in the best interest of the child.

(5) A single unmarried person may apply to become a resource home parent.

(6) A cabinet worker who provides protection and permanency services may become a resource home parent upon approval of the Commissioner of the Department for Community Based Services.

(7) The decision to foster or adopt a child shall be made by the cabinet, in compliance with the applicable administrative regulations.

(8) Each adult member of the applicant family shall submit an OOHIC-107, completed by a health professional, stating that the individual is free of illness or a condition that presents a health or safety risk to a child placed in the applicant’s home.

(9) Each parent applicant shall submit form OOHIC-107, completed by a health professional, stating that the parent applicant’s general health and medical ability to care for a child placed in the applicant’s home. The health history and current health status of each member of the resource applicant family shall be obtained by the cabinet to assure that no member of the household has an illness or condition that presents a health or safety risk to a child placed in the resource home. Each parent’s health history shall include a written statement from a medical professional regarding the parent’s general health and medical ability to care for a child placed in the applicant’s home.

(10) A resource home applicant shall have a source of income separate from: (a) Foster or resource home care reimbursement; or

(b) Adoption assistance.

(11) Unless specified in a contract between the cabinet and a child welfare agency that provides foster care services, a resource home parent shall [be] accept foster care only from the cabinet.

(12) An approved resource home parent shall be willing to:

(a) Provide foster care services;

(b) Adopt a child under the custodial control of the cabinet; or

(c) Provide respite services by caring for a child under the custodial control of the cabinet.

(13) A resource home applicant shall provide the cabinet:

(a) The name of two (2) personal references;

(b) The name of a neighbor who shall be interviewed by cabinet staff in person or by telephone; and

(c) Two (2) credit references.

(14) If applicable, verification shall be obtained from the resource home applicant regarding:

(a) Previous divorce;

(b) Death of a spouse; and

(c) Present marriage.

(15) A resource home applicant who does not have custody of his or her child shall provide:

(a) A copy of the visitation order;

(b) A copy of the child support decree; and

(c) Proof of current payment of child support.

(16) A resource home applicant and any adult residing in the household shall authorize the release of criminal records to the cabinet.

(17) A resource home applicant shall not be selected for approval if an adult residing in the household has a:
Section 4. Home Environment. (1) Except for the operation of a certified family day care home, a resource home parent that provides only foster care services shall not be licensed to provide commercial day care services for an unrelated child or adult at the same time the resource home parent is approved to provide ninety-four (94) hour care for a child.

(2) If the resource home adjoins a place of business open to the public, potential negative impact on the family and the child shall be examined including the:

(a) Hours of operation;
(b) Type of business; and
(c) Clientele.

(3) The resource home parent shall have access to:
(a) Reliable transportation;
(b) School;
(c) Recreation;
(d) Church;
(e) Medical care; and
(f) Community facilities.

(4) A resource home parent who drives shall possess:
(a) A valid driver’s license; and
(b) Proof of liability insurance.

(5) Up to four (4) children, including the resource home parent’s own children (if any), may share a bedroom.

(6) Each child shall have his own separate bed.

(7) Each infant shall have a crib.

(8) Except for approval by cabinet staff, a resource home parent shall not sit in a bedroom with a child under the custodial control of the cabinet.

(9) The bedroom of a child under the custodial control of the cabinet shall be comparable to each bedroom in the house.

(10) The physical standard of the resource home shall:
(a) Not present a hazard to the safety and health of a child; and
(b) Be well heated and ventilated.

(11) The following shall be inaccessible to a child:
(a) Medication;
(b) Alcoholic beverage;
(c) Poisonous or cleaning material;
(d) Ammunition; and
(e) Firearms.

(12) A dangerous animal shall not be allowed near the child.

(13) First aid supplies shall be available and stored in a place easily accessible to an adult.

(14) A telephone or other means for immediate access to communication with the outside community shall be available.

(15) The home shall be equipped with a working smoke alarm within ten (10) feet of each bedroom.

Section 5. Emergency Shelter Resource Home. (1) An applicant may be approved as an emergency shelter resource home and the resource home parent shall be eligible to receive the emergency shelter rate if the parent:

(a) Meets the requirements of Sections 3 and 4 of this administrative regulation;

(b) Care for a child age twelve (12) and above who needs immediate, unplanned care for longer than thirty (30) days. An exception to the minimum age of twelve (12) or an extension shall be approved by the service region administrator;

(c) Completes ten (10) hours of cabinet-sponsored training or training approved in advance by the cabinet beyond the required pre-service and

(d) Has a working telephone in the home.

(2) An approved emergency shelter resource home parent shall receive reapproval for the emergency shelter rate if the parent completes ten (10) hours of on-going cabinet-sponsored training or training approved in advance by the cabinet:

(a) Beyond the annual requirement; and

(b) Before the anniversary date of approval as an emergency shelter home.

Section 6. Medically Fragile Resource Home. (1) An applicant may be approved as a medically fragile resource home and the resource home parent shall be eligible to receive a medically fragile rate consistent with the parent’s level of training and experience and the child’s medical acuity level if the resource parent:

(a) Meets the requirements in Sections 3 and 4 of this administrative regulation;

(b) Care for a child approved by cabinet staff as medically fragile because of a need for:

1. Medical condition documented by a physician that may become unstable and change abruptly resulting in a life-threatening situation;
2. Chronic and progressive illness;
3. Severe disability that requires technological assistance (technology);
4. Need for a special service or ongoing medical support;
5. Need for twenty-four (24) hour care by a physician or licensed nurse for the child to survive;

(2) Health condition stable enough to be in a home setting only with frequent monitoring by an attending physician or care of a licensed nurse;

(c) Except by approval of cabinet staff, is a primary caretaker who is not employed outside the home;

(d) Has completed:

1. A medically fragile curriculum approved by the cabinet;

2. An additional twenty-four (24) hours of cabinet-sponsored training or training approved in advance by the cabinet beyond the pre-service requirement in the areas of:

(a) Growth and development;
(b) Nutrition; and
(c) Medical disabilities;

(e) Has received training in how to care for the specific medically fragile child who shall be placed;

(f) Maintains current certification in:

1. CPR; and
2. First aid;

(3) Has a home within:

1. One (1) hour of a medical hospital with an emergency room;

2. Thirty (30) minutes of a local medical facility.

(2) Professional experience related to the care of a medically fragile child may substitute for the training requirement specified in subsection (1)(d) of this section.

(3) Except for a sibling group or unless approved by the service region administrator, no more than four (4) children, including the parent’s own children, shall reside in a medically fragile resource home.

(4) Unless approved by a service region administrator or if a medically fragile resource home has live-in or daily support staff to meet the needs of a medically fragile child:

(a) A one (1) parent medically fragile resource home shall:

1. Not care for more than one (1) medically fragile child; and
2. Demonstrate access to available support services;

(b) A two (2) parent medically fragile resource home shall care for more than two (2) medically fragile children, including the resource parent’s own children.

(c) An approved medically fragile resource parent shall receive annual reapproval for a medically fragile rate consistent with the parent’s level of training and experience and the child’s medical acuity level if
the parent;
(a) Annually completes twenty-four (24) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet before the anniversary date of approval as a medically fragile home; and
(b) Continues to meet the requirements of subsections (1) and (3) of this section.

Section 7. Family Treatment Home. (1) An applicant may be approved as a family treatment home and the parent shall be eligible to receive a family treatment home rate consistent with the parent's level of training and experience if the resource parent:
(a) Meets the requirements of Sections 3 and 4 of this administrative regulation;
(b) Cares for a child who [threat]:
1. Has a serious emotional problem;
2. Is due to be released from a treatment facility;
3. Displays aggressive, destructive, or disruptive behavior;
4. Is at risk of being placed in a more restrictive setting;
5. Is at risk of institutionalization; or
6. Has experienced numerous placement failures;
(c) Except for approval by the service region administrator, is a primary caretaker who is not employed outside the home;
(d) Completes the twenty-four (24) hour family treatment training background preservation requirement;
(e) Maintains a daily log of the child's activities, behaviors, and intervention techniques; and
(f) Attends all treatment planning conferences.
(2) Except for a sibling group or unless approved by the service region administrator, no more than four (4) children, including the parent's own children, shall reside in a family treatment home.
(3) Unless approved by the service region administrator or if a family treatment home has live-in or daily support staff to meet the needs of a child described in subsection (1)(b) of this section:
(a) A one (1) parent family treatment home shall:
1. Not care for more than one (1) child as described in subsection (1)(b) of this section; and
2. Demonstrate access to available support services;
(b) A two (2) parent family treatment home shall care for more than one (1) child as described in subsection (1)(b) of this section, including the family treatment home parent's own child.
(c) A family treatment home shall have access to respite care provided by an individual who has completed family treatment training.
(5) An approved family treatment home parent shall receive annual reapproval for the family treatment home rate consistent with the parent's level of training and experience, if the parent:
(a) Annually completes twenty-four (24) hours of ongoing cabinet-sponsored training or training approved in advance by the cabinet before the anniversary date of approval as a family treatment home; and
(b) Submits to review of:
1. The family treatment home parent's intervention skills and techniques;
2. Records kept by the family treatment home parent; and
3. Ability to meet the goals established for the child.

Section 8. Preparation and Selection of a Resource Family. (1) An applicant shall complete a:
(a) Minimum of thirty (30) hours of initial family preparation; and
(b) Curriculum used statewide and approved by the cabinet.
(2) Except for a cabinet-approved individual family preparation program, family preparation for placement of a child under the custodial control of the cabinet shall be completed in a group setting by each adult who resides in the household and provides care.
(3) An adult child or elderly person who resides in the resource home shall not be required to complete family preparation if that individual shall not be responsible for care of a child placed in the home by the cabinet.
(4) The cabinet is not obligated to grant resource home approval or placement of a specific child to a family that completes family preparation.
(5) The purpose of family preparation shall be to:
(a) Orient the applicant to the philosophy and process of the cabinet's family foster and adoption care program;
(b) Develop greater self-awareness on the part of the applicant to determine strengths and needs;
(c) Sensitize [prepare] the applicant by sensitizing him to the kinds of situations, feelings, and reactions that are apt to occur with a child committed to the cabinet; and
(d) Effect behavior so that an applicant may better fulfill the role as parent of a foster or adopted child.
(6) The family preparation process shall emphasize:
(a) Self-evaluation; resource home;
(b) Participation in small group exercises; and
(c) Discussion with experienced foster and adoptive parents.
(7) In addition to completion of the family preparation curriculum, at least two (2) family consultations shall be conducted by cabinet staff in the home of an applicant and the applicant shall be informed during the consultation of his right to request an administrative review if a difference arises that cannot be resolved through a supervisory channel.
(8) A child already placed by the cabinet in the home of an approved resource parent who [threat] may remain and additional children may be placed, if the new spouse completes the family preparation process within six (6) months of the marriage.
(9) An approved foster parent who moves to Kentucky from another state shall:
(a) Be assessed by cabinet staff to ascertain the parent's level of skill as a resource home parent; and
(b) Not be required to complete the family preparation process for approval as a Kentucky resource home parent if cabinet staff:
1. Determine that the parent possesses the necessary skills for fostering; and
2. Obtain records and recommendation from the other state.
(10) If cabinet staff determine that an approved foster parent who has moved to Kentucky from another state lacks necessary foster parent skills, an individualized preparation curriculum shall be developed to fulfill [meet] any unmet training needs.

Section 9. Completion of the Resource Home Certification Process. (1) A family services office supervisor may approve a resource home applicant if:
(a) A complete family profile signed by the applicant has been received;
(b) The applicant has completed family preparation as specified in Section 8(1) of this administrative regulation;
(c) The information required in Section 3(12) through (14) of this administrative regulation has been obtained;
(d) The recruitment and certification worker recommends approval; and
(e) The applicant's ability to provide a foster, adoptive, or respite service is consistent with the:
1. Cabinet's minimum resource home requirements; and
2. Needs of the families and children served by the cabinet.
(2) A resource home applicant shall not be denied approval solely due to:
(a) Age;
(b) Income;
(c) Marital status;
(d) Race;
(e) Religious preference;
(f) Sexual orientation;
(g) Physical or disabling condition; or
(h) Location of the resource home.
(3) If the family services office supervisor determines [at any time] that an applicant does not meet the minimum requirements for approval as a resource home parent, the cabinet shall recommend that the applicant withdraw his application.

Section 10. Denial of a Resource Home Application. (1) The family services office supervisor shall notify an applicant, in writing, if the application is denied for one (1) of the following reasons:
(a) The applicant is unwilling to withdraw his application after receiving a recommendation to withdraw; or
(b) The applicant desires to adopt, but is unwilling to adopt a child under the custodial control of the cabinet. If the family services office supervisor determines that an applicant does not meet minimum requirements for approval as a resource home parent.
the applicant is not willing to withdraw his application or if a resource home applicant who desires to adopt is not willing to adopt a child under the custodial control of the cabinet; written notification regarding denial of the application shall be sent to the applicant.

(2) If the resource home applicant disagrees with the family services office supervisor’s decision to deny approval as a resource home, the service region administrator shall review the application and issue a final written determination regarding approval.

Section 11. Home Study Requests. Except for a request received from the sending state’s Interstate Compact on the Placement of Children Administrator in the interest of a child in the legal custody of the sending state’s public agency, the cabinet shall not complete a home study as specified in 922 KAR 1:100, Section 6(6), or share a previously approved home study for a family who attempts to receive a child for foster care or adoption through a public agency or licensed private adoption agency in another state or country.

Section 12. Annual Resource and Adoptive Parent Training Requirement. (1) A resource parent or [foster] waiting adoptive parent shall be required to complete, before the anniversary date of approval, at least [participate in a minimum of six (6) hours of annual cabinet-sponsored training or training approved in advance by the cabinet before the anniversary date of approval].

(2) An individualized curriculum may be developed for a resource or adoptive parent who is unable to participate in annual group training because of employment or other circumstances.

(3) Except for a resource family that has developed a significant emotional attachment to a child placed with the family, the home of a resource parent that fails to meet the annual training requirement shall be closed. Additional children shall not be placed in the home until the training requirement has been satisfactorily met.

(4) When a resource home-parent participates in ongoing training, the family services office supervisor shall [may] approve reimbursement for the following expenses of a resource home parent who is participating in ongoing training:

(a) Mileage;
(b) Babysitting and [and]
(c) Tuition or fees in the amount of $100 per family member or $200 per week for:
1. Medically fragile foster home; or
2. Family treatment home.

(5) If the resource parent’s request to attend training is denied, the cabinet shall provide written notice of the resource parent’s right to a fair hearing.

Section 13. Resource Home Annual Reevaluation. (1) A cabinet staff member shall conduct a personal, in-home interview with a resource family during the anniversary month of initial approval. The interview shall assess:

[Personnel interview conducted by cabinet staff in the home of a resource family shall be required annually during the anniversary month of initial approval]

(a) [Access]: A change in the family;
(b) [Access]: The ability of the family to meet the needs of a child placed in the home; and
(c) [Determine] Continuing compliance with the [cabinet] requirements of Sections 3 and 4 [specified in Sections (3) and (4)] of this administrative regulation.

(2) The interviewer shall complete form OOHG-1289 during the interview. [During the interview, the OOHG-1289 is completed by cabinet staff.]

Section 14. Resource Family Reviews. (1) Cabinet staff shall complete a review within thirty (30) days of notification of a factor that may place unusual stress on the family or create a situation that may place a child at risk.

(2) Factors that shall result in a review of a resource home parent shall include:

(a) Death or disability of a family member;
(b) Sudden onset of a health condition that would impair a parent’s ability to care for a child placed in the home by the cabinet;
(c) Change in marital status;
(d) Sudden, substantial decrease in, or loss of, income;
(e) Childbirth;
(f) Both resource home parents have reached the age of seventy [seventy];
(g) Use of a form of punishment that includes:
1. Oural, severe, bizarre, or humiliating actions;
2. Corporal punishment inflicted in any manner (upon the body); or
3. Denial of food, clothing, or shelter;
(h) Withholding implementation of the child’s treatment plan;
(i) The parent is cited, charged, or arrested with a violation of law or
(i) Other factor identified by cabinet staff that jeopardizes the physical, mental, or emotional well being of the child;

(3) The narrative of the review shall contain:

(a) Identifying information;
(b) Current composition of the household;
(c) Description of the situation that initiated the review;
(d) An evaluation of the family’s functioning to determine if the child’s needs are met; and
(e) A plan for corrective action that may include a recommendation for closure of the resource home.

Section 15. Closure of an Approved Resource Home. (1) An approved adoptive home shall be closed pursuant to 922 KAR 1:100.

(2) A resource home shall be closed if:

(a) Cabinet staff determine that the family does not meet the general requirements for a resource home family;
(b) A situation exists that is not in the best interest of the child;
(c) Substantiated sexual abuse or exploitation by the resource home parent occurs;
(d) Substantiated physical abuse of a child or spouse occurs that is serious in nature or warrants removal of the victim;
(e) A serious physical or mental illness develops that may impair or preclude adequate care of the child by the parent or
(f) The parent is convicted of a felony offense;
(g) If it is necessary to close an approved resource home, the reason shall be stated [stated] by cabinet staff in a personal interview with the family.

(4) The cabinet shall confirm, in a written notice to the parent, [written notice confirming] the decision to close a home. The notice shall be delivered [within thirty (30)] days of the interview with a resource home [and adoptive] parent and

(a) No later than ten (10) days prior to the closing of a resource home;
(5) The written notice for closure of a resource or adoptive home shall include:

(a) Notice that the cabinet shall not place a child in the home;
(b) The reason why the resource home is being closed; and
(c) Notice of the parents’ right to request an appeal of the decision.

Section 16. Reappraisal. (1) A former resource home parent whose home was closed without a deficiency may reapply.

(2) If a deficiency led to closure, a former resource home parent may be considered for reappraisal if the deficiency has been resolved.

(3) To reapply, a [future] former resource home parent shall:

(a) Attend an information meeting;
(b) Submit the:
1. Application; and
2. Names of references specified in Section 3(12) of this administrative regulation; and
3. Authorization for criminal records release specified in Section 3(15) of this administrative regulation;

(4) A reappealing former resource parent shall complete family preparation, unless the former resource parent:

(a) Has previously attended family preparation, as specified in Section 8(1) of this administrative regulation; and
(b) is considered a [need] placement resource for children[-the former-resource-parent shall complete-family preparation].

Section 17. Foster Parent Adoption. (1) A foster parent may adopt a child for whom parental rights have been terminated if:
(a) Foster parent adoption is determined by cabinet staff to be in the best interest of the child; and
(b) The child resides in the foster home.

(2) If a foster parent expresses [an] interest in adopting a foster child currently placed in the home and an alternative placement is in the child's best interest, cabinet staff shall meet with the foster parent prior to selection of an adoptive home to explain:
(a) Why an alternative permanent placement is in the child's best interest; and
(b) The foster parent's right to submit a request to the cabinet to reconsider the recommendation (recommened-denial).

(3) If a foster parent is not approved for adoptive placement of a child currently placed in the home, cabinet staff shall meet with the foster parent to explain the:
(a) Reason foster parent adoption is not in the best interest of the foster child; and
(b) Foster parent's right to request an administrative review.

Section 18. Resource Home Payments. (1) Forms [file] OCHO-111 and OCHO-111-A shall be signed by the resource home parent prior to the placement of a child under the custodial control of the cabinet.

(2) The cabinet shall, to the extent funds are available, pay an approved resource home parent a daily rate for care of a child placed in the home by the cabinet.

(3) The basic rate received by an approved resource home parent shall be:
(a) Specified in the contract, form OCHO-111; and
(b) Received by a parent who has not completed advanced training,

(4) The advanced rate received by an approved resource home parent shall be:
(a) Specified in the contract, form OCHO-111-A;
(b) 100 percent of the current USDA estimate of the cost of raising a child in the urban south; and
(c) Received by a parent who:
1. Has completed twenty-four (24) hours of advanced training beyond the required preservice training; and
2. Completes twelve (12) hours of ongoing cabinet-sponsored or cabinet-approved training each year.

(5) A resource home parent who has been approved as an emergency shelter home parent shall receive an emergency shelter rate specified in the contract, form OCHO-111, for the care of a child described in Section 5(1)(b) of this administrative regulation.

(6) A resource home parent who has been approved as a medically fragile home parent and who meets the requirements of Section 6 of this administrative regulation shall receive the:
(a) Basic medically fragile rate specified in form [the] OCHO-111 for care of a medically fragile child;
(b) Advanced medically fragile rate specified in form [the] OCHO-111 for care of a medically fragile child, if the parent maintains a current license as a licensed practical nurse; and
(c) Degreeed medically fragile rate specified in form [the] OCHO-111 for care of a medically fragile child, if the parent maintains a current license as a registered nurse or physician.

(7) A resource home parent who has been approved as a family treatment home parent for the care of a child as described in Section 7(1)(b) of this administrative regulation shall receive the:
(a) Basic family treatment home rate specified in form [the] OCHO-111 during the first year of approval as a family treatment home; and
(b) Advanced family treatment home rate of reimbursement upon:
1. Completion of ongoing cabinet-sponsored or approved training; and
2. One (1) year of experience as a family treatment home.

(8) An approved resource home parent who refers an applicant that becomes an approved resource or adoptive parent may be paid a bonus.

Section 19. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Family Profile", edition 10/16/91;
(b) "Family Information Required on Foster and Adoptive Applicant", edition 7/00 (revised);
(c) OCHO-111, "Foster Home Contract", edition 7/00 (revised);
(d) OCHO-111A, "Foster Home Contract Supplement", edition 7/00 (revised);

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Franklin, Kentucky 40932, Monday through Friday, 8 a.m. to 4:30 p.m. [Family annual evaluation] means a periodic joint evaluation process used by the department and foster or adoptive parents to:
(a) Assess the changes in a family;
(b) Review the ability of the family to meet the needs of children; and
(c) Determine continuing compliance with standards and expectations.

(3) "Family preparation" means a joint assessment process used by the department and the applicant for the purpose of determining whether the family may serve children the department has available for placement and how they may best meet these children's needs.

(4) "Foster or adoptive family review" means an assessment process used by the department when factors are identified which may put the family under stress and may affect the placement of a child.

(5) "Foster-home contract" means a written contract, the DIS-111 incorporated by reference in 955 KAR 1:340, Out-of-home care, that details mutual expectations of the department and the family home for the twenty-four (24) hour care of the children.

Section 2. General Requirements for Foster and Adoptive Parents: (1) Foster and adoptive applicants and approved families shall meet the following requirements with exceptions approved by the department:

(a) Personal qualities and relationships that enable them to perform the responsibilities entailed in caring for children;
(b) Applicants shall be between the ages of twenty-one (21) and sixty-five (65) years and may be of an age to have naturally parented the age child they seek to have placed with them; and
(c) The number of children in a home shall be determined by the state's capacities and size of the home's physical accommodations of the home, and the effect of a child's placement on the equilibrium of the family as a unit.

1. Except in placement of sibling groups or where there is more than one (1) responsible adult in the home who can give full-time care to the children, no more than six (6) children shall reside in the family foster home. This number shall include the foster child and any foster parents' own children living at home. The family services district manager shall approve exceptions for up to ten (10) children. Placement of more than ten (10) children including the foster parents' own children, shall be granted by the Director of Family Services.

2. More than three (3) infants including the foster children and foster-parent's own children shall not be in the same home at the same time. Limitations on the number of special needs; medically fragile, or family treatment children who can be placed in a family foster home are specified in Section 11 of this administrative regulation.

(d) Employees of the department shall not be foster parents but may apply to adopt a child. An adoptive application shall not be processed in the office in which the applicant is employed or in an office served in an official capacity by the employee applicant. The employee may be referred to other licensed agencies.

(e) Applicants, including their children and other household members shall possess good mental and physical health and be free from communicable diseases, and specific illnesses or disabilities which interfere with the family's capacity to care for children. An examination for the household members shall be completed by a physician, nurse practitioner, or a nurse practitioner within a year preceding the date of application is required. After
approval, the worker may require a foster parent to supply documentation of their current health status; if a question arises about the foster parent's health:

1. A physical disability in a household member, which does not interfere with the child's ability to give adequate care to a child shall not prevent approval;

2. If a household member has received mental health services, he shall be asked to sign a medical release to obtain a report or evaluation regarding the emotional or mental health of that individual;

3. Adoption applicants shall inform the agency of their medical insurance carrier and the provisions of the carrier for including an adopted child on the policy. If the family does not have medical insurance coverage, they shall be advised of the risks involved and encouraged to provide coverage for their family. The family shall be informed of the agency's medical coverage for children in foster and adoptive placement;

(i) Applicants shall be expected to have an income sufficient to meet their present family's needs and to insure the stability of the family unit. Applicants who have children not in their custody shall provide copies of the child support decree;

(g) Applicants who are employed shall be required to have a plan for child care at the time of placement;

(h) Except in those cases where foster-parent accepts children from the fiscal court, foster-parents shall only accept children for foster care through the Department of Community-Based Services unless otherwise specified in a contract between DGBS and another child-care provider.

(i) Foster-parents shall not care for unrelated adults on a commercial basis or be licensed and accept children for care at the same time they are approved as foster parents to provide twenty-four (24) hour care for children without the approval of the Director of Family Services;

(ii) Home environment. The family shall have access to schools, recreation centers, medical care and community facilities. If the home adjoins a place of business open to the public, consideration shall be given to the impact of the business upon the family and child. Factors including hours of operation, type of business and clientele shall be examined in terms of their potential impact. Physical standards of the home shall be of a degree of comfort sufficient to insure the well-being of the family:

1. The home shall have bedroom space to allow occupants sufficient living space;

2. More than four (4) children, including the foster parent's own children, shall not share a bedroom;

3. Each child shall have a bed and each infant a crib but more than two (2) children shall not share a bed;

4. If children sleep together, consideration shall be given to age, sex, and maturity of the children;

5. It is desirable that adults not share a bedroom with a child. Exceptions may be approved for infants and toddlers by the district manager;

6. Children's bedrooms may generally be on the main floors of the house. Attic or basement bedrooms shall have adequate ventilation and be comparable to other living areas of the house;

7. Physical standards of the home shall not present hazards to the safety and health of a child and shall be well heated and ventilated;

8. Medications, alcoholic beverages, poisonous and cleaning materials shall be stored in cabinets inaccessible to small children;

9. Children's access to potentially dangerous animals shall be restricted;

10. Ammunition and firearms shall be stored in separate places;

11. The child shall be provided with sufficient storage space to be safely accessible to adults;

12. A telephone or other means for immediate access to communication with the outside community shall be available;

13. The home shall be equipped with working smoke alarms within ten (10) feet of each bedroom. It is suggested that decals indicating children in the home be obtained from local fire departments;

14. Marriages and family relationships shall have been married for at least two (2) years prior to approval. An exception may be granted by the Family Services Office Supervisor for married applicants who have been married for more than a year but not less than two (2) and whose relationship has been continuous and stable for at least a two (2) year period;

The decision to foster or adopt shall be agreed to by members in the household, including children of appropriate age;

2. Previous divorces, deaths of spouses, and the present marriage shall be verified by a copy of marriage certificate, divorce judgments, or verifications of deaths;

3. Applicants who have children not in their custody shall provide copies of the visitation order;

4. A single unmarried person may apply to be a foster or adoptive parent. Single persons living together as spouses may not apply. An adult child living separate and apart from the parent shall not be considered an adult child as defined in Kentucky law for the child to meet requirements, including attendance at the group preparation meeting as specified in Section 4(4) of this administrative regulation;

5. If an approved parent marries, the new spouse shall meet the same certification requirements and shall be approved as a foster or adoptive parent for the home to remain open. This preparation process shall normally be completed within six (6) months. Foster children may be placed in a foster family home if the preparation process has been initiated and if placement is determined to be in the best interest of the child;

(i) Applicants shall provide names of two (2) personal references one (1) of which shall be a neighbor, a present or former employer, adult children not living in the home and two (2) credit references. A telephone or personal interview shall be conducted with the neighbor, with the present or former employer if employed, and adult children not living in the home. The references which may be written, if there are questions as to the appropriateness of the applicant, a telephone or personal contact shall be made with the reference;

(m) Criminal record. Applicants and other adults, including adult children who live in their household, shall authorize the release of criminal records to the department by completing a DDS-216, Police Record Search, herein incorporated by reference;

1. The Office of Children's Benefits Coordinator shall request record checks from the state police upon receipt of the completed DDS-216 and return the completed checks to the worker to be filed in the applicant's case record. Reported criminal convictions shall result in contact with the court of jurisdiction for a complete history of the offense;

2. Central office shall check the child abuse and spousal abuse registry for previous allegations;

3. If the applicant has lived in another community or in another state, a request for records search of those locations shall be made prior to approval. Court records shall be checked for the disposition of an arrest record. With the exception of the state police, the worker shall contact the law enforcement agencies;

4. If there has been a conviction or fine on a charge other than minor traffic offenses, the applicant shall provide evidence of rehabilitation to the Department from an appropriate justice agency attesting to the individual rehabilitation and that the character reference from a person with good standing in the community, not a relative or close friend, and from the employer, who are aware of the conviction and who can attest to the person's behavior since the conviction;

5. Personal references shall be personally interviewed if the applicant or household member has been convicted of a misdemeanor or felony, permission to proceed with the preparation process shall be given by the district manager;

2. Applicants who are in the department's pool of families awaiting preparation for a non-special needs child may register with the department. Preparation for a special needs child shall be discontinued if the applicant receives a child from another source, adopted or birth child, their request to the department shall not be considered for one (1) year from the time of placement or birth;

(f) Foster parent role expectations. Foster parents shall be informed of the following role expectations during the preparation process:

(a) To the child foster parents shall:

1. Provide structure and daily activities designed to promote individual physical, social, intellectual, spiritual, and emotional development of the children in their home. Foster parents of children ages zero to six (6) are to provide appropriate opportunities for activities which stimulate the growth and development of the child.
2. Assist the children to develop skills and to perform tasks which shall promote independence and the ability to care for themselves.
3. Cooperate with the agency to help the children maintain an awareness of their past, a record of the present, and a plan for the future.
4. Ask children to assume work responsibilities reasonable for their age and ability and commensurate with those expected of their own children.
5. Provide well-balanced daily meals and are encouraged to eat together as a family. Foster parents shall have snacks available for children.
6. Provide for special dietary needs of children placed in their home.
7. Provide each child with their own clean, well-fitting, attractive and seasonal clothing appropriate to age, sex, and individual needs, and comparable to the clothing of their own children and community standards. Foster parents shall include the children in the choosing of their own clothing if possible.
8. Allow children to bring and acquire personal belongings. Foster parents shall send personal clothing and belongings with the children when they leave the family foster home.
9. Work with them to establish and enforce curfews.
10. Not leave all children under age fourteen (14) without responsible supervision. The department may require constant adult supervision of the developmentally disabled child over fourteen (14) as a part of the child's treatment plan.
11. Cooperate with the agency in the medical and dental care planning for the child by scheduling appointments as needed and by being responsible for keeping immunizations current.
12. Report to the department encounters with medical providers and receive or follow-up medical or dental care the child needs.
13. Be responsible for arranging transportation for children to necessary medical and dental appointments if possible.
14. Give children prescribed medications only with a physician's prescription or authorization, and shall dispense the exact amount of medications prescribed for a child by a physician or dentist.
15. Inform the agency within one (1) working day of a psychoactive medication prescribed for a child.
16. Treat personal information about a child and the child's family in a confidential manner.
17. Provide an allowance for the child's discretionary spending at the rate set by the department in the foster-home contact. Foster parents shall not make demands that allowance money be spent on family activities initiated by the foster parents.
18. Encourage children to establish savings accounts.
19. Not accept part of a child's earned or unearned income without written agreement of the department and the child.
20. Recognize, encourage and support the religious beliefs, ethnic heritage and language of a child and his family. Foster parents shall attempt to arrange transportation to religious services or ethnic events for a child whose beliefs and practices are different from their own. If this is not possible, or if it is believed to be inappropriate then permission to exclude the child from these activities may be sought from the court.
21. Not coerce children to participate in religious activities or ethnic events against their will or beliefs. If other approved child care arrangements are not available, the department may reimburse babysitting expenses for children who choose not to attend church with the foster parents because it is against their will or beliefs.
22. Enroll each child in school-age in school within three (3) days of the placement of the child. Exceptions may be made by the Family Services Office Supervisor.
23. Cooperate and shall take part in the department in the selection and arrangements for educational programs appropriate for the child's age, abilities and treatment plan.
24. Plan with school personnel if there are problems with the child in school, but shall report to the department serious situations which may require its involvement.
25. Provide opportunities for recreational activities which are appropriate to the age and abilities of the child.
26. Encourage children to take part in community services and activities both with the family and on their own.
(b) To the child's family foster parents shall:
1. Present a positive image of the child's family to him.
2. Be a supplement, but not a replacement, for the child's own parents.
3. Demonstrate respect for the child's own family and shall agree to work with the child's family members as indicated in the case plan for out-of-home care.
4. Participate in the development of the visitation agreement and shall allow children and their family members to visit and communicate in accordance with the visitation agreement.
5. Intercepting or reading incoming or outgoing mail of a child shall be prohibited.
(c) To the department foster parents shall:
1. Cooperate in the ongoing monitoring of their homes and shall give the information required for the agency to verify compliance.
2. Annually participate in a minimum of six (6) hours of training.
3. Take part in planning for the children and shall cooperate in the preparation, placement and visitation plans for the children placed in their home.
4. Be willing to work cooperatively with the agency staff as a team in the development and implementation of the case plan and participate in the case review for each child.
5. Provide advance notice if possible to the agency regarding changes which affect the life and circumstances of the foster family.
6. Notify the agency immediately of illness, accidents, or any unusual circumstances affecting the health, safety, physical or emotional well-being of the child.
7. Maintain records in accordance with the agency procedures for the children placed with the family.

Section 2. Recruitment of Families (1). Statewide recruitment efforts to find foster and adoptive families shall be the responsibility of recruitment and certification staff.
(2) Recruitment expenditures:
(a) Each district may spend up to $500 per quarter for expenses related to recruitment and parent training, except Jefferson and Bluegrass which may spend up to $1,000 per quarter. The major restriction on the use of these funds shall be printing costs which shall be provided by existing state government resources. Each district shall be responsible for monitoring expenditures related to recruitment and training.
(b) Expenditures in excess of $500 but less than $1,000 shall have three (3) informal bids with the lowest bidder receiving the contract after prior approval from central office.
(c) Foster parents, who refer applicants who become approved foster parents, may be paid a fifty (50) dollar bonus. Families studied for a child already in their home shall not be eligible.

Section 4. Preparation and Selection of Families. (1) Family preparation shall be completed in group settings with other applicant families. Families who attend group preparation are not obligated themselves to accept a child, nor is the agency obligated itself to grant foster or adoptive home approval or placement of a child. Exceptions to group participation may be given by the director upon approval of an individualized training plan. Preparation sessions are scheduled at least quarterly in each district and prospective parents may be given the options of attending preparation group conducted in another county or district, or waiting for the next group to begin in the local county. Applicants shall complete a minimum of eighteen (18) hours of preparation and may be given applications after the first preparation session.
(a) The goals of the group preparation shall be:
1. To orient the applicants to the philosophy and process of the department's adoption and foster care programs.
2. To develop greater self-awareness on the part of the applicants to determine their strengths and needs.
3. To prepare applicants by sensitizing them to the kinds of situations, feelings, and reactions that are apt to occur with children.
4. To instruct them in the ways they may better fulfill the function of their role as parents of an adopted child or foster children.
(b) The preparation process shall emphasize:
1. Self-evaluation through discussions.
2. Participation in small-group exercises.
3. Discussions with experienced adoptive and foster parents.
(e) Inquirers shall be given a brief explanation about the need for families and shall be invited to attend an informational meeting to learn
about the department's adoption and foster care programs:

(a) A "snapshot" of waiting children shall be available in the local DSS office.

(b) A listing of licensed child-placing agencies may be offered to the inquirer.

(c) A worker shall not recommend independent adoption, but may explain the procedures for independent adoption pursuant to KRS 199.199.

(d) The worker shall not refer a family to an attorney or a physician or other intermediary for the purpose of arranging an independent adoption.

(e) Staff shall maintain information on those who inquire about foster or adoptive parenting, except for adoption inquiries for a non-special needs child which has a closed intake.

1. Foster parent inquiries shall be kept on a log.
2. A record of those inquiring about special needs adoption shall be kept on the DSS-1256, Adoption Intake Form, herein incorporated by reference.

(f) Requests for adoption preparation called  "SNAP-Intake", shall be available for families who desire to adopt

(a) White children aged ten (10) or over;
(b) Black or black and white children;
(c) Sibling groups of three (3) or more children;
(d) Severely emotionally disturbed or physically disabled children;
(e) Educable, trainable, severely or profoundly mentally disabled children.

This includes children with I.Q.s of seventy (70) and below.

(g) Information meetings shall be scheduled monthly or at least quarterly in a convenient location for applicants. If the applicants are married, both husband and wife shall attend the information meeting.

Families who sign a DSS-197, "SNAP-Intake Statement", incorporated herein, regarding adoption and those who express an interest in foster care are invited to begin the preparation process. Applicants shall be informed at the information meeting of

(a) Their right to request an administrative review if differences arise which cannot be resolved through supervisory channels; and
(b) Their right to a fair hearing:
1. The home is closed; or
2. Placements into the home are being suspended.

(5) Family interview shall be required and individual family member interviews may be scheduled if needed with one (1) family interview in the home.

(6) If the need for adoptive families for non-special needs children arises, central office staff shall identify applicants from the register of waiting families and notify local staff to begin the preparation process.

Applicants moving out of state shall be removed from the register with the following exceptions:
(a) Kentucky drafted military families; and
(b) Families who are temporarily assigned out of state by their employer for a period not to exceed eighteen (18) months.

(7) Applicants requesting a transracial placement shall attend a preparation session on adopting transracially.

(8) Withdrawal of applications:

(a) Applicants may voluntarily withdraw their application of their own initiative.

1. Applicants who voluntarily withdraw are given written notice confirming their decision by the supervisor within two (2) weeks.
2. Applicants who request family preparation through SNAP and then decide not to consider a special needs child shall be considered to have voluntarily withdrawn.

(b) It is determined that the applicants do not meet minimum requirements for foster or adoptive parents, a decision to recommend withdrawal may be initiated by the department. If the department recommends that the applicants withdraw.

1. The applicants shall be given written notice of the decision to recommend withdrawal of their application by the district manager within two (2) weeks of the decision.
2. If the applicants do not accept the reason for the recommended withdrawal and refuse to withdraw their application, the worker and the supervisor shall hold a personal interview with the applicants to inform them of the department's recommendation and inform them of their right to request an administrative review.

3. Applicants are given written notice of the decision to withdraw their application by the district manager within two (2) weeks.

4. Home preparation shall cease when the decision is made to ask the applicants to withdraw.

(f) The foster or adoptive home narrative shall be completed based on a combination of information obtained in the preparation sessions and the family interviews.

(10) Approval:

(a) Applications are not considered complete until the applicants:
1. Complete and sign the application;
2. Complete the group preparation process; and
3. The required references and verifications are received.

(b) Upon completion of the application process, the worker submits for approval:
1. DSS-83, acceptance scale (adoption only);
2. DSS-122, family application;
3. Medical information;
4. Verification of marriage or divorce;
5. DSS-176, financial statement;
6. DSS-216, police record search and response;
7. DSS-164, foster parent I.D. or foster care only;
8. VS-26, verification of death (spouse);
9. Pictures;
10. Narrative;
11. Autobiographies;
12. Reference letters;
13. Approval letter and
14. DSS-197, SNAP Intake (adoption only).

(c) The family services district manager shall be required to approve or deny applications with a misdemeanor conviction. The Director of Family Services shall be required to approve or deny applications with a felony conviction or substantiated reports of either child or spouse abuse.

(d) Provisional approval may be granted only to families who have accepted placement of a committed child by order of the court and are requesting approval as foster parents. Prior to provisional approval being granted the following are required:
1. Family foster home applications;
2. Medical forms;
3. Contact with a minimum of two (2) references;
4. DSS-176, financial statement;
5. The applicants shall begin the preparation process within ninety (90) days of the court order or placement of the child.

(11) Adoptive families who are approved and waiting for a non-special needs child may be approved for placement of a special needs child and then reinstated to their original position on the register for a non-special needs child. To be approved for a special needs child, the following are required:

(a) Completion of the preparation process;
(b) SNAP intake statement, DSS-197;
(c) Update summarizing their preparation, interest in special needs children, and readiness for placement of a special needs child; and
(d) Approval of the district manager.

Section 5. Annual Foster Parent Training Requirement. (1) Both foster parents shall be required to participate in six (6) hours of annual training within one (1) year of approval or their most recent annual reevaluation.

(2) An individualized training plan may be developed for the foster parent who is unable to participate in group training because of employment or other circumstances and is reviewed for compliance during the annual reevaluation.

(3) The foster parents who do not meet the training requirements shall be closed. The only exception shall be to families who have a child in their care who has developed a significant emotional attachment to the foster parents and whose best interest shall be served by preserving the placement. The approval of the district manager required. Additional children shall not be placed in the home until the training requirement has been satisfactorily met.

(4) To assist foster parents in complying with the ongoing training requirements, the supervisor may approve babysitting for foster children and mileage. The supervisor may also approve tuition or fees in the amount of fifty (50) dollars per family per year or $100.00 per year for special needs, medically fragile or family treatment homes.

(5) Staff shall provide written notice of the foster parents' right to a
fair hearing if the foster parents request to attend training provided or scheduled by the department is denied.

Section 6. Family Foster Home Annual Reevaluation: Personal interviews in the home with foster families and in the home or office with approved and waiting adoptive families are required annually during the anniversary month of the initial approval. Approved and waiting adoptive families whose updates are not current shall not be given consideration for children:

(a) Foster home reevaluation:
   (1) The worker, if necessary, updates the pictorial description file;
   (2) Prior to completing the reevaluation, the worker reviews information in the family foster home record, including exit interviews and discusses areas of identified stress factors and concerns with the foster family. If the family has an individualized training plan, it is reviewed for compliance and plans are made for the family's continued compliance with the training requirement;
   (3) The DSS-882, Foster Family Reevaluation and DSS-885A; Foster Child Supplement—herein incorporated by reference are completed;
   (d) A family who has never received a child or had a placement by the fifth anniversary date shall no longer be considered as a placement resource;
   (e) Adoption reevaluation;
   (f) The worker updates information on approved and waiting adoptive families and also informs them of children currently awaiting placement by sharing the SNAP Book;
   (g) The family is given an opportunity to review and change their acceptance scale;
   (h) Significant changes in the family i.e., income, health, marital status, etc. are noted in the narrative update which is approved by the supervisor;
   (i) A family who has never received a child or had a placement by the fifth anniversary date shall no longer be considered as a placement resource. The worker may request an extension for families waiting for nonspecial needs children;
   (3) If a family changes their address, the narrative section shall be updated in the record. For an adoptive family, a copy is submitted to the Central Office Adoption Specialist;
   (4) If the family moves to a different area of the state, the worker notifies the appropriate supervisor prior to forwarding the record and if possible, the name and phone number of the new worker is provided to the family prior to the move.

Section 7. Foster or Adoptive Family Reviews: (1) The worker shall conduct a review within a month of notification if there are factors which may place the child at risk. Factors may include the following:
   (a) Death or disability of a family member;
   (b) Change in marital status;
   (c) Sudden substantial decrease in or loss of income;
   (d) Childbirth;
   (e) Both foster parents have reached the age of sixty-five (65); and
   (5) Use of a prohibited form of punishment or a substantiated abuse or neglect report:
      (a) The narrative of the review shall contain;
      (b) Current composition of the household;
      (c) Description of the situation which initiated the review;
      (d) An evaluation of the family functioning to determine if the child's needs are met, and
      (e) A plan for corrective action which may include a recommendation for closure of the home;
      (3) If abuse or neglect or dependency is established or there is some indication, a review of the home shall be completed. The decision to close or continue using the home is made by the Family Services District Manager based on pertinent available information.

Section 8. Closings: Approved Homes: (1) Families approved who have not received a placement within five (5) years shall be closed on the fifth anniversary of their approval date unless an indefinite extension is granted for adoptive families waiting for a nonspecial needs child. A home may be closed at the request of the foster or adoptive parent when:

(a) The recruitment and certification worker determines that the family does not meet the general requirements for foster or adoptive families; or
(b) If a situation exists that is not in the best interest of the child;
(c) If one (1) of the following occur, the home shall be closed:
   (d) Substantiated sexual abuse or exploitation by the foster or adoptive parents;
   (e) Substantiated physical abuse of a child or spouse serious in nature or warranting removal of the victim;
   (f) Presence of a serious physical or mental illness which may impair or preclude adequate care of the child by the parent;
   (g) Conviction of a felony offense by the parent;
   (2) If closure is necessary for an adoptive family who has a child placed, but the adoption is not finalized, the worker and supervisor shall consult with the Family Services District Manager and the Office of Counsel regarding removal of the child from the home;
   (3) A summary is written which contains:
      (a) An evaluation of placements for a period of time not previously recorded;
      (b) The reasons for closure;
      (c) The reactions of the family to closure; and
      (d) The family's potential appropriateness for parenting if they reapply;
   (4) If it is necessary to close an approved home, the reasons are shared by the worker and supervisor in a personal interview with the family;
   (5) Written notice confirming the decision to close a home shall be completed within two (2) weeks if the family requests closure, within thirty (30) days of the interview for adoptive parents and no later than ten (10) days prior to the closing for foster parents. The written notice shall include:
      (a) Notice that the department shall no longer place foster children in the home;
      (b) Notice that the contract between the department and the family foster home is terminated;
      (c) The reasons for the family foster home being closed; and
      (d) Notice of the foster-parents right to appeal and the procedures for initiating an appeal;

Section 9. Reapplication: Former foster and adoptive families who were closed in good standing with the department with no deficiencies may reapply. Adoptive parents who were closed following finalization of an adoption may also reapply. A family whose home was closed for specific problems or identified family issues may reapply following one (1) year. The issues or problems that led to the closure shall have been resolved:

(1) To reapply the foster and adoptive family shall:
   (a) Attend an information meeting to become familiar with changes in policy and procedure;
   (b) Attend group preparation, and exception may be made only for parents who have previously attended group and are considered excellent resources for children;
   (c) Complete application forms, medical records, references and criminal records and registry checks;
   (2) The worker shall complete an updated narrative;

Section 10. Foster Parent Adoption: (1) Foster parents may ask to adopt a child in their care, and may be considered when the child is legally available for adoption and if it is in the child's best interest. Approval of a foster-parent's request to adopt a child in their care is the decision of the district manager;
   (a) Foster parents shall attend a group or individual preparation session on adoption;
   (b) The documentation for foster-parent adoption is forwarded to the manager within three (3) months after foster-parent adoption has been identified as the plan for the child, and parental rights have been terminated;
   (c) The application for adoption is initiated no later than one (1) month after the foster parent has indicated a desire to adopt a child who is available for adoption, unless the family has already been approved for adoption. If the application form has not been completed within the designated time period:

1. A conference is held with the foster parents, family worker,
Family Services Office-Supervisor, R & G-Officer; R & G-worker; and child, if appropriate, to discuss:
a. The reasons for delay; and
b. To develop plans to meet the permanency needs of the child.
and
2. If the foster parents intend to proceed with the adoption, time frames are established and monitored. Failure to adhere to the agreed upon time frame may result in a review by the Family Services District Manager and a decision made regarding the foster parent adoption:
   (a) If the foster parents do not desire to adopt a foster child in their home, but the fosters parents shall be recommended by the family services worker, R & G worker and supervisory staff shall:
   (e) Submit a memorandum through channels to the manager summarizing the situation and stating the reasons for not recommending the adoption;
   (f) The manager reviews the material, meets with appropriate staff and if necessary, consults with Office of Counsel regarding the facts of the case;
   (g) If the manager agrees that the foster parent adoption cannot be approved, the worker informs the foster-parent of the decision and of his right to request a conference to discuss his desire to adopt a foster child;
   (d) If the formal family home application has been filed, the foster family shall be advised in writing of the decision by the manager; and
   (e) The decision regarding the child's continued placement in the home shall be determined on an individual basis;

Section 11: Certification Requirements. (1) Foster homes:
   (a) A relative may be approved as a foster home for the placement of a specific child if it is in the best interest of the child and if the relative has met the same requirements as Section 2(1)(a)-(m) of this administrative regulation except:
   (b) In the case of a relative who is between eighteen (18) to twenty-one (21) or over sixty-five (65) years of age may be approved if it has been determined the relative can meet the needs of the child. The home narrative shall document that the relative's age may not have a negative impact on the care of the child.
   (c) A relative who has been married for less than one (1) year may be approved if it has been determined the relative can meet the needs of the child. The home narrative shall document that the length of the relative's marriage may not have a negative impact on the child.
   (d) A relative who has not completed group preparation requirements may be approved if they have an individualized training program;
   (b) The Family Services District Manager shall be responsible for the approval of foster homes. Upon completion of the application process and family interview, the worker submits the following for review prior to approval of the relative foster home by the district manager:
   1. DSS-122-family application;
   2. Medical information or other medical report documentation;
   3. Verification of marriage or divorce or other documentation;
   4. Financial statement;
   5. DCS-216: police record check and response;
   6. Verification of death if applicable;
   7. Narrative;
   8. Autobiographies;
   9. Reference letter; and
   10. Approval letter.
   (c) Relative foster homes are reevaluated annually or if a significant change occurs.
   (d) Emergency shelter foster homes:
   (a) Foster parents who care for children age twelve (12) and above, who are in need of immediate, unplanned placement for less than thirty (30) days and for whom no other appropriate resources are available, shall meet the requirements in Section 2(1)(a)-(m) of this administrative regulation and, to be eligible for the emergency shelter rate shall meet the following requirements:
   1. The foster parents shall not be employed outside the home and one (1) shall be in the home as the responsible caretaker;
   2. Personal qualifications:
      a. Commitment to and understanding of adolescents and reasons for applying as emergency shelter foster parents shall be carefully explored; and
      b. Because of the increased demands, the foster parent's health and stamina, in relation to their age, shall be considered;
   3. Home environment:
      a. A telephone is required for general safety and alcohol and medications shall be kept in a locked cabinet; and
      b. Both foster parents, or the foster-parent primarily responsible for the care of the children, shall complete ten (10) hours of training beyond the eighteen (18) hours required in preservice. Completion of the ten (10) hour training requirement does not automatically grant approval for emergency shelter care;
   (b) The Family Services District Manager shall be responsible for the initial approval of emergency shelter foster homes and notification to the family. The request for approval to the Family Services District Manager shall include:
   1. An evaluation of the foster parents' participation in and knowledge gained from the training;
   2. A statement that additional requirements for emergency shelter foster care have been met;
   3. Social worker's assessment of the past history of care for children, experience and qualifications in relation to the type of child requested; and
   4. An evaluation of strengths and weaknesses;
   (c) To receive ongoing approval, the foster family shall:
   1. Continue to meet the emergency shelter foster-home certification requirements in paragraph (a)1-4 of this subsection;
   2. Both foster parents, or the foster parent with primary responsibility for the care of the child shall have participated in ten (10) hours of ongoing training over the past year;
   (d) Failure to meet the ongoing training requirement ends the family's approval for the emergency shelter rate. The rate then reverts to the base rate and whatever incentives the family is eligible to receive, or if the foster parents have not met the six (6) hour requirement, the home is closed;
   (e) Special needs foster homes:
   (a) Foster parents who care for children with special needs shall meet the requirements in Section 2(1)(a) through (m) of this administrative regulation and shall meet the following requirements to be eligible to receive the special needs training incentive:
   1. Consideration shall be given to the child-care plan if both foster parents are employed outside the home or if a single foster parent is employed outside the home. Flexibility of employment and resources to meet the increased responsibilities shall be documented;
   2. The internal and external environment shall be adaptable to the special needs of the child, i.e., ramps, doorways, etc.;
   3. Requirements of regular foster care apply in addition:
      a. A one (1) parent family foster home shall not care for more than two (2) children with special needs, including the foster parent's own children;
      b. A two (2) parent home shall not care for more than three (3) children with special needs, including the foster parent's own children; and
      c. An exception may be granted by the district manager;
   4. Personal qualifications:
      a. The commitment to children with special needs and reasons for applying as special needs foster parents shall be explored; and
      b. Because of increased demands, health and stamina in relation to age is a consideration;
   5. Home environment:
      a. There shall be an emergency exit on each floor or the potential to provide exit if needed in case of fire;
      b. Transportation and the ability to adapt transportation to accommodate special equipment shall be available;
      c. The dispensing of life sustaining daily medication shall be documented on a log. If a child takes a prescribed medication, an over the counter drug shall not be administered without the advice of a physician; and
      d. A telephone is required for general safety.
   b. Both foster parents, or the foster-parent primarily responsible for the care of the children, shall successfully complete twenty-four (24) hours of training beyond the eighteen (18) hours required in preservice, but completion of the twenty-four (24) hours of training requirement does not automatically grant approval as a special needs foster home;
   (b) the district manager shall be responsible for the approval of
special-needs foster homes. The request for approval to the district manager shall include an evaluation of the foster-parents' participation in and knowledge gained from training.

(c) Special-needs foster families shall receive annual ongoing approval by the district manager during their annual reevaluation which shall indicate that the family foster-home:

1. Continues to meet the special-needs foster-home certification requirements; and
2. Both foster-parents, or the foster-parent with primary responsibility for child care, shall meet one (1) of the following criteria:
   a. Have participated in twelve (12) hours of training over the past year provided by the department or approved in advance by the R & G supervisor. The following may be used, hour for hour, to meet the ongoing training requirement:
      i. Planned meetings among special-needs foster parents conducted by a social worker;
      ii. Participation in community-service activities or other association with an interest in special needs children;
      iii. Attendance at workshops or course work receiving prior approval of the supervisor; and
      iv. Individualized professional training in the field from which the child needs specialized care with prior approval of the supervisor;
   b. Qualification: ongoing practice in the field from which the child needs specialized care.
   c. Failure to meet the ongoing training requirement ends the family's approval for the special needs training incentive. The rate then reverts to the base rate and whatever incentives the family is eligible to receive or if the foster-parents have not met the six (6) hour requirement the home is closed.

(4) Medically fragile foster homes:

(a) Foster-parents who care for medically fragile children shall meet the requirements in Section 2(1)(a) through (m) of this administrative regulation and paragraphs (a) through (d) of this subsection to receive the medically fragile rate with the following exceptions:

1. Both foster-parents shall not be employed outside the home and one (1) shall be in the home as the responsible caretaker. An exception for employment shall be made by the Director of Family Services.
2. Number of children in the family:
   a. A one (1) parent foster home shall not care for more than one (1) medically fragile child, including the foster-parent's own children, and shall demonstrate that support services are available and may be provided:
      i. Growth and development;
      ii. Nutrition;
      iii. Medical disabilities;
      iv. Current certification in CPR; and
      v. Current certification in first aid;
   b. A two (2) parent home shall not care for more than two (2) medically fragile children, including the foster-parent's own children.
   c. An exception for number of children in the family may be approved by the Director of Family Services for a home that has a full time or daily staff support and if it is determined that the particular needs of the children and the subsequent demands on the foster-parent shall be met:

3. Training:
   a. Foster parents who provide care for medically fragile children shall meet the same requirements for initial approval as in special needs and shall have had training in the areas of:
      i. Growth and development;
      ii. Nutrition;
      iii. Medical disabilities;
      iv. Current certification in CPR; and
      v. Current certification in first aid;
   b. Prior to the placement of a medically fragile child and the payment of the fragile rate, the foster-parent shall be trained in the techniques of caring for the specific fragile child to be placed:

4. The home shall be within one (1) hour of a medical hospital with an emergency room and within thirty (30) minutes of a local medical facility.

(b) The district manager shall be responsible for the approval of medically fragile foster homes. The request for approval to the district manager shall include:

1. An evaluation of the foster-parents training related to medically fragile;
2. Documentation that additional requirements for medically fragile have been met;
3. The worker's assessment of the past history of care for children, experience and qualifications in relation to the type of child requested;
4. Recommendations for approval, including an evaluation of strengths and weaknesses.

(c) Medically fragile foster families shall receive annual ongoing approval by the district manager during their annual reevaluation. To receive ongoing approval the family foster home shall continue to meet the medically fragile foster home certification requirements. Both foster-parents shall maintain current certification in CPR and First Aid and meet one (1) of the following criteria:

1. Participation in twenty-four (24) hours of ongoing training over the past year provided by the department, the content of which is approved in advance by the Director of Family Services. The following may be used, hour for hour, to meet the ongoing training requirement of twenty-four (24) hours:
   a. Planned meetings among medically fragile foster-parents conducted by a social worker;
   b. Participation in an organization associated with or having an interest in medically fragile children;
   c. Attendance at workshops or course work receiving prior approval of the Director of Family Services; and
   d. Individualized professional training from the medical profession related to the individualized needs of the child;
2. Qualification: ongoing practice in the field from which the child needs specialized care.
3. Failure to meet the ongoing training requirement ends the family's approval for the medically fragile rate. The rate then reverts to the base rate and incentives the family is eligible to receive or if the foster-parents have not met the six (6) hour requirement the home is closed. The Director of Family Services shall approve the continuing placement of a medically fragile child in a home if the training requirement has not been met.

5. Family treatment homes:

(a) Foster parents who care for children who are determined to be appropriate for family treatment homes shall meet the requirements in Section 2(1)(a) through (m) of this administrative regulation and shall meet the following requirements to receive the family treatment home rate:

1. Number of children placed:
2. A one (1) parent foster home shall not care for more than one (1) family treatment child, including the foster-parent's own child, and shall demonstrate that support services are available and may be provided:
3. A two (2) parent home shall not care for more than two (2) family treatment children, including the foster-parent's own children.
   a. Regardless of the status of the family, more than four (4) children shall not be placed in the home;
   b. Foster parents who care for children shall be placed in the home.
   c. Foster children in the family may be approved by the Director of Family Services for a home that has live in or daily staff support, and if it is determined that the particular needs of the children and the subsequent demands on the foster-parent shall be met:

4. Training:
   a. Foster parents who provide care for children who are determined to be appropriate for family treatment homes shall meet the same requirements for initial approval as in special needs and shall have had training in the areas of:
      i. Growth and development;
      ii. Nutrition;
      iii. Medical disabilities;
      iv. Current certification in CPR; and
      v. Current certification in first aid;
   b. Prior to the placement of a medically fragile child and the payment of the fragile rate, the foster-parent shall be trained in the techniques of caring for the specific fragile child to be placed:

5. The home shall be within one (1) hour of a medical hospital with an emergency room and within thirty (30) minutes of a local medical facility.

(b) The district manager shall be responsible for the approval of family treatment homes. The request for approval to the district manager shall include:

1. Documentation that the family treatment home training has been completed;
2. Documentation that all additional requirements for family treatment home have been met;
3. The names, qualifications and training of the respite care pro-
4. The worker's assessment of the past history of care for children; experience and qualifications in relation to the type of child requested; and

5. Recommendations for approval, including an evaluation of strengths and weaknesses:

(c) To receive ongoing approval, the annual reevaluation shall indicate that the family foster home:

1. Continues to meet the family treatment home certification requirements which shall include:
   a. A review of the foster parent's intervention skills and techniques;
   b. Recordkeeping; and
   c. Training and ability in meeting the established goals and objectives for the children;

2. Foster parents shall meet one (1) of the following criteria:
   a. Participation in twenty-four (24) hours of ongoing training over the past year provided by the department, the content of which is approved in advance by the training supervisor. The training may be used hour for hour to meet the ongoing training requirement of twenty-four (24) hours:
      (i) Monthly planned meetings among family treatment home foster parents conducted by a social worker;
      (ii) Attendance at workshops or course work receiving prior approval of the supervisor;
      (iii) Individualized professional training in the field from which the child needs specialized care with prior approval of the supervisor; and
      (iv) Except attendance at the child's treatment planning conference and other child-specific activity does not meet the annual training requirement;
   b. Qualification by ongoing practice in the field from which the child needs specialized care;
   c. Failure to meet the ongoing training requirement ends the family's approval for family treatment home. The rate then reverts to the base rate and whatever incentives the family is eligible to receive, or if the foster parents have not met the six (6) hours requirement the home is closed.

Section 12. Material incorporated by reference (1) The forms necessary for the implementation of the family preparation section are being incorporated by reference.

(2) Material incorporated by reference may be inspected and copied at the Department for Community-Based Services, GHR Building, 6th Floor, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
HIREN DESAI, Attorney
APPROVED BY AGENCY: June 5, 2000
FILED WITH LRC: June 5, 2000 at 3 p.m.
KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(Amended After Hearing)

11 KAR 8:030. Teacher scholarships.

RELATES TO: KRS 164.744(2), 164.753(3), 164.769
STATUTORY AUTHORITY: KRS 164.748(4), 164.753(3),
164.769(2), (5), (6)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.744(2) authorizes the authority to provide scholarships, and KRS 164.753(3) requires the Kentucky Higher Education Assistance Authority to promulgate administrative regulations pertaining to standards for scholarship programs. KRS 164.769 establishes a teacher scholarship program and requires the Kentucky Higher Education Assistance Authority to establish the terms and conditions for the award, cancellation, and repayment of teacher scholarships, awarded under KRS 164.769 and under prior teacher scholarship programs administered by the Kentucky Higher Education Assistance Authority. This administrative regulation establishes selection criteria, disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the program.

Section 1. Definitions. (1) "Authority" is defined in KRS 164.740(1).
(2) "Critical shortage area" is defined in KRS 164.769(2)(a).
(3) "Eligible program of study" is defined in KRS 164.769(2)(b).
(4) "Expected family contribution" is defined in KRS 164.769(2)(c).
(5) "Participating institution" is defined in KRS 164.769(2)(d).
(6) "Public school" means the common schools of the Commonwealth providing preschool, elementary, middle school, and secondary instruction.
(7) "Qualified teaching service" is defined in KRS 164.769(2)(e).
(8) "Semester" is defined in KRS 164.769(2)(f).
(9) "Summer term" is defined in KRS 164.769(2)(g).
(10) "Teaching" means performing classroom instruction in a position for which teacher certification is a prerequisite to perform such instruction.

Section 2. Eligibility of Renewal Applicants and Selection Process. (1) Applicants shall complete an application according to instructions. The applicant shall ensure that the completed application and supporting data indicating the applicant's financial need are received by the authority on or before May 1, or the next regular business day if May 1 falls on a weekend or holiday, preceding the academic year for which the award is requested.
(2) Eligibility of renewal applicants.
(a) A person who previously received a loan or scholarship pursuant to KRS 156.611, 156.613, 164.769, 164.769 or 164.770 prior to July 1, 1996 shall be eligible to apply for and be awarded a renewal teacher scholarship without consideration of expected family contribution if, at the time of application and disbursement, the renewal applicant has made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution.
(b) A person who previously received a loan or scholarship pursuant to KRS 164.769 after July 1, 1996, shall be eligible to apply for and be considered for a renewal teacher scholarship if, at the time of application and disbursement, the renewal applicant has made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution.
(3) (2) After awards are made to all qualified renewal applicants, applicants shall be considered and teacher scholarships shall be awarded to recipients in the following order until funds are depleted:
(a) Initial applicants who meet the standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 and have been unconditionally admitted to a teacher education program shall be ranked in ascending order by expected family contribution.
(b) Initial applicants who have not yet been admitted to a teacher education program but who meet the standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program shall be ranked in ascending order by expected family contribution.
(c) Otherwise eligible initial applicants seeking admission to a teacher education program shall be ranked in ascending order by expected family contribution.

Section 3. Award Maximums. (1) The amount of a teacher scholarship award shall be calculated by determining the student's total cost of education minus expected family contribution and the amount of financial aid received or expected to be received during the academic period. The amount of financial aid received or expected to be received during the academic period shall not include any amounts available from any student loan or work-study programs.
(2) The maximum teacher scholarship award for a student classified as a junior, senior, postbaccalaureate, or graduate shall be $1,250 for a summer session, $2,500 for a semester, and $5,000 for an academic year (exclusive of a summer session).
(3) The maximum teacher scholarship award for a student classified as a freshman or sophomore student shall be $325 for a summer session, $625 for a semester, and $1,250 for an academic year (exclusive of a summer session).
(4) The maximum award to an eligible student enrolled less than full-time in the last semester or summer term during which a baccalaureate, postbaccalaureate or master's degree will be completed shall be:
(a) $210 per credit hour if the student is enrolled during a regular semester;
(b) $105 per credit hour if the student is enrolled in a summer term.

Section 4. Disbursements. (1) Disbursement of a teacher scholarship shall be made at the beginning of each semester or summer session and each disbursement shall be evidenced by a promissory note, prescribed by the authority, in which the scholarship recipient shall agree to repay the scholarship funds or render qualified teaching service in lieu thereof.
(2) The monies awarded under the Teacher Scholarship Program shall be transmitted directly to the participating institution on behalf of all students eligible to receive the scholarship by electronic funds transfer.
(3) The authority shall send to the participating institution a disbursement roster containing each recipient's name and Social Security number.
(4) The participating institution shall hold the funds solely for the benefit of the student eligible to receive the scholarship and the authority until the recipient has registered for classes for the period of enrollment for which the scholarship is intended.
(5) Upon the recipient's registration, the participating institution shall immediately credit the recipient's account and notify the recipient in writing that it has so credited that account, and deliver to the recipient any remaining scholarship proceeds.
(6) The participating institution shall indicate on the disbursement roster the date funds were either credited to the student's account or disbursed to the student, the name of a recipient for whom funds are being returned, the amount being returned, and the reason funds are being returned.
(7) If a recipient does not register for the period of enrollment for which the scholarship was awarded, or a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the scholarship is awarded, the school shall return the proceeds to the authority by electronic funds transfer within ten (10) days of the recipient's withdrawal, expulsion, or failure to register.
(8) The school shall retain a copy of the disbursement roster for its records, and forward the original roster and any undisbursed scholarship funds to the authority not later than thirty (30) days following receipt of the roster and the funds.
(9)(a) If a recipient subsequently refuses to repay the scholarship on grounds that he was unaware of or did not receive delivery of the scholarship proceeds from the school, upon written request from the authority, the school shall promptly provide documentary evidence to the authority that the recipient received or had funds credited to his student account and was notified of this transaction.

(b) The school shall otherwise reimburse the authority for any amount of the scholarship that is unenforceable absent that documentary evidence.

(c) The obligation of the school to provide the documentary evidence specified in paragraph (a) of this subsection shall continue until the recipient's obligations for repayment of the scholarship is paid in full or otherwise discharged.

Section 5. Cancellation. (1) A recipient rendering qualified teaching service in a designated critical shortage area shall remain eligible for the critical shortage credit provided by KRS 164.769(6)(c) if:

(a) The authority determines that an area is no longer a critical shortage area; and

(b) The recipient continues to render qualified teaching service in the area.

(2) A recipient who received a teacher scholarship prior to July 1, 1995, in return for agreeing to obtain the appropriate recertification and to teach in a critical shortage area upon completion of the recertification program shall receive cancellation of the repayment obligation if the recipient renders qualified teaching service in that area or in another critical shortage area.

(3) If a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, the teaching requirements shall not be fulfilled concurrently. Unless the authority determines otherwise for cause, loans or scholarships from more than one (1) program shall be repaid or cancelled by qualified teaching service in the same order in which they were received. If a recipient has received a loan or scholarship pursuant to KRS 156.611, 156.613, 154.768, 154.769 or 164.770 during the same semester as receiving a scholarship pursuant to KRS 161.165, the loan or scholarship received pursuant to KRS 156.611, 156.613, 154.768, 154.769 or 164.770 shall be repaid or cancelled by qualified teaching service prior to the scholarship received pursuant to KRS 161.165.

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

Section 6. Repayment. (1) A recipient failing to attain certification after completion of the eligible program of study or to commence rendering qualified teaching service within the six (6) month period following completion of the eligible program of study shall immediately become liable to the authority to pay the sum of all promissory notes and accrued interest thereon, unless the authority grants a deferment for cause.

(2) The interest rate applicable to repayment of a teacher scholarship under this section shall be twelve (12) percent per annum.

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

(1) Change in enrollment status;

(2) Cessation of full-time enrollment in an eligible program of study;

(3) Employment in a qualified teaching service position; or

(4) Change of name or address.

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

Section 9. Records. A participating institution shall maintain complete and accurate records pertaining to the eligibility, enrollment and progress of each student receiving aid under this program and the disbursement of funds and institutional charges as may be necessary to audit the disposition of these funds. The institution's records shall be maintained for at least five (5) years after the student ceases to be enrolled at the institution.

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

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

Section 12. Incorporation by Reference. (1) The Teacher Scholarship Application and its instructions are incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel
APPROVED BY AGENCY: June 23, 2000
FILED WITH LRC: June 23, 2000 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: This administrative regulation delineates selection criteria, disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the Teacher Scholarship Program. During Fiscal Year 2000 there will be 304 initial and 201 renewal scholarships awarded under this program, for a total dollar amount of $1,528,000.

(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: There will be minimal savings to the public. This administrative regulation only delineates selection criteria, scholarship calculation disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the Teacher Scholarship Program. The program reduces the direct out-of-pocket expenditure by residents of the Commonwealth who wish to attend participating institutions of postsecondary education and to teach in the Commonwealth.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent from the public comments received: The proposed amendment to this administrative regulation will have no effect on the cost of doing business for any entity.

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

1. First year following implementation: The proposed amendment to this administrative regulation will have no effect on reporting and paperwork requirements for the teacher scholarship program.

2. Second and subsequent years: Same as above.

(3) Effect on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The amendment to this administrative specifies that a person who previously received a teacher scholarship pursuant to KRS 164.769 after July 1, 1995, shall be eligible to apply for and be considered for a renewal teacher scholarship if, at the time of application and disbursement, the renewal applicant has made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution. This merely corrects an unintended omission in the regulation in dealing...
with a segment of renewal applicants. The proposed amendment to this administrative regulation is anticipated to have no indirect or direct costs. The proposed amendment to this administrative regulation is anticipated to have no indirect or direct costs or savings to the authority.

2. Continuing costs or savings: The proposed amendment to this administrative regulation is anticipated to have no indirect or direct costs or savings to the authority.

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: The proposed amendment to this administrative regulation will have no effect on the reporting and paperwork requirements of the authority.

(d) Assessment of anticipated effect on state and local revenues: The proposed amendment will have no effect on state and local revenues.

(e) Source of revenue to be used for implementation and enforcement of administrative regulation: The revenue for the implementation and enforcement of this administrative regulation is provided by three sources: the General Fund, Special Deposit Trust Fund, consisting of money collected from previous recipients, and net lottery proceeds transferred from a Student Financial Aid and Advancement Fund.

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

(a) Geographical area in which administrative regulation will be implemented: It is anticipated that there will be no economic impact as the result of the proposed amendment to this administrative regulation.

(b) Kentucky: It is anticipated that there will be no economic impact as the result of the proposed amendment to this administrative regulation.

(f) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered as KRS 164.769 contemplates that all teacher scholarships after 1995 will be based on financial need and satisfactory academic progress.

(f) Assessment of expected benefits:

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

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: There is no effect on public health and environmental welfare.

(c) If detrimental effect would result, explain detrimental effect: None.

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: There are no known conflicts.

(a) Necessity of proposed regulation if in conflict: There are no known conflicts.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There are no known conflicts.

(10) Any additional information of comments: None.

(11) Tiering: Was tiering applied? No. If no, explain why tiering was not applied. This administrative regulation prescribes uniform procedures for administration of the Teacher Scholarship program. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the authority. 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 FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amended After Hearing)

922 KAR 1:300. Standards for child-caring facilities (residential and emergency shelter).

RELATES TO: KRS 199.125(3), 198B.050 to 198B.090, 199.011(2), (3), (4), (6), (7), (10), (11), 199.540, 199.645, 199.650, 199.660, [le] 199.670, 211.350 to 211.380, 214.034(4), Chapter 271B.08, 273.161(7), Chapter 424, 600.020(19), 610.110(6), 615.010, 615.030, 615.040, 620.020

STATUTORY AUTHORITY: KRS 194B.050(1) [194B.060], 199.640(3), (5), 198.B.050, 615.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.640(3) authorizes the Cabinet for Families and Children to issue administrative regulations relating to standards of care and service for child-caring facilities. [This proposed administrative regulation consolidates the provisions of 955 KAR 1:655, 955 KAR 1:991, 955 KAR 1:110, 955 KAR 1:120, and 955 KAR 1:260.]

Section 1. Definitions. (1) "Advisory board" means a group of citizens approved by the board of directors who lends advice, counsel, and support to agency.

(a) "Aftercare" means a service [services] provided to the child after discharge from a child-caring facility.

(b) "Board of directors" is defined at KRS 273.161(7). [means that group which is by law or charter delegated the responsibility for governing the facility.]

(c) "Cabinet" means the Cabinet for Families and Children.

(d) "Case" means an individual child or family being provided services by a social worker or counselor.

(e) "Chemical restraint" means a drug used as a restraint that is a medication used to control behavior or to restrict the patient's freedom of movement and is not a standard treatment for the patient's medical or psychiatric condition.

(f) "Child" is defined at KRS 199.011(4). 600.020(6), and 610.110(6). "[Case coordinator] means the individual on the treatment team who has responsibility [for the coordinated implementation of the child's individual treatment plan]."

(g) "Child-care facility" is defined at KRS 199.011(6) and 198B.011(6).

(h) "Child-placing agency" is defined at KRS 199.011(7).

(i) "Child-care program" means the method of delivering a child-caring service [services].

(j) "Community resources" means a service or activity [services and activities] available in the community that supplements [supplement] those provided by the child-care facility or child-placing agency in the care and treatment of a child [children].

(k) "Corporal physical discipline" is defined at KRS 199.640(6).

(l) "Department" means the Department for Community Based Services.

(m) "Crisis intervention unit" means a unit operated [as-part of a residential treatment program] that serves a child in need of short-term intensive treatment and to avoid risk of placement to a higher level of care.

(n) "Direct child-care staff" means an employee or volunteer [any employee providing face-to-face care and supervision of a child [children]].

(o) "Discharge" means a planned release of a child from a program.

(p) "Division" means the Division of Licensing and Regulation, Cabinet for Health Services [Families and Children], 275 East Main Street, Frankfort, Kentucky 40621.

(q) "Emergency discharge" means the release of a child from a program as a result of circumstances that presents a risk to the health or safety of a child.

(r) "Emergency shelter" is defined at KRS 600.020(19).

(s) "Emergency shelter child-caring facility" means a child-caring facility which meets the requirements of 922 KAR 1:380.

(t) "Executive director" means the person employed by the board of directors to be responsible for the administration and management of a child-care facility [agency].

(u) "Group home" is defined at KRS 199.011(10).

(v) "Independent living program" means a planned program designed to teach youth life skills that will enable them to become self-sufficient.

(w) "Individual treatment plan (ITP)" means a plan of action developed and implemented to address the needs of a [an] individual child.

(x) "Indoor living area" means an area in the child-caring facility that is separate from a hallway, bedroom, kitchen, stairway, vestibule, bathroom, closet, unfinished basement, and attic. [areas] means those areas in the facility that are separate from hallways, bedrooms, kitchens, stairways, vestibules, bathrooms, closets, unfinished basements, and attics.

(y) "Institution" is defined at KRS 199.011(11).
(145) "Latching device" means an instrument used to secure a
seclusion room door that does not require the use of a key or com-
binations.
(146) "Living unit" means a building or part thereof in which a child
resides (children reside), not exceeding sixteen (16) beds.
(147) "Permanence" is defined at KRS 620.020(7).
(148) "Residential child-caring facility" means a child-caring facility
that meets the requirements of 922 KAR 1:350.
(149) "Residential treatment program" means a residential child-
caring facility that meets the requirements of 922 KAR 1:390.
(150) "Service coordination" means a service provided by the indi-
vidual on the treatment team who has responsibility for the coordi-
nated implementation of the child's ITP.
(151) "Safe physical restraint" means the use of the human body
to safely control the actions of another.
(152) "Seclusion room" means a room in a youth treatment center
for the temporary seclusion of a child in danger of harming self or
other which may use a latching device to secure the door.
(153) "Social services" means a planned program of assistance
to help an individual move toward a mutual adjustment of the individual
and his social environment.
(154) "Therapeutic hold" means a technique used by a specially-
trained staff member for the purpose of restricting a child's freed-
edom of movement to provide safety [the use of the human-body to
secure or control the action of another].
(155) "Temporary shelter" means a facility which provides none-
such, residential care on a temporary or emergency basis.
(156) "Time-out" means a treatment intervention utilized by child-
caring staff to separate a child from others in a nonsecure area for
a time limited period to permit the child to regain control over his
behavior.
(157) "Treatment" means individualized management and care of a
child utilizing professionally credentialed and certified staff, and a
component [professional staff and component] of the treatment envi-
ronment to assist the child in resolving his emotional conflict or
behavioral disorder.
(158) "Treatment director" means the person responsible for su-
ervising the day-to-day operation of the program for children served
by the agency or facility.
(159) "Treatment team" means a representative group of people
who provide services to the child and the child's family.
(160) "Youth treatment center" means a residential treatment facil-
ity as defined in KRS 600.020 providing intensive professional treat-
ment oriented services.
(161) "Unplanned discharge" means the release of a child from
the child-caring facility that is not in accordance with the ITP.

Section 2. Scope of Operations and Services. (1) The standards
for a child-caring facility [These standards pertain to the out-of-home
care of a child (children) who may benefit by the experience that a
residential service, including aftercare service may offer] experiences
residential services may offer. Child-caring programs function within a
continuum of care, providing an array of services to families and chil-
dren.
(2) The type of a child-caring facility program covered by this ad-
ministrative regulation include:
(a) An emergency shelter child-caring facility pursuant to 922 KAR
1:380;
(b) An emergency shelter child-caring facility with treatment pur-
suant to 922 KAR 1:380, Section 2(1);
(c) A residential child-caring facility pursuant to 922 KAR 1:390 to
include:
1. A group home; and
2. An institution.
(d) A residential treatment program pursuant to 922 KAR 1:390.

Section 4, to include:
1. Crisis intervention unit pursuant to 922 KAR 1:390, Section 5;
2. Group home pursuant to 922 KAR 1:390, Section 6; and
3. An institute.
(3) A child-caring facility shall not be located or operated on the
grounds of a hospital. [Types of child-caring programs covered by this
regulation are temporary shelter, group homes, residential child care,
and residential treatment services.]

Section 3. Administration and Operation. (1) The licensing proce-
dure for a child-caring facility shall:
(a) Be administered pursuant to 922 KAR 1:305; and
(b) Meet the requirements of this administrative regulation and
922 KAR 1:380 or 922 KAR 1:390 [licensing procedures];
(1) Initial licensure:
1. If applying for an initial license, the facility shall prepare the fol-
lowing:
a. A complete application as determined by the cabinet;
b. A licensure fee of $155;
c. A copy of the Articles of Incorporation;
d. A mission statement of purposes, objectives, scope of services
provided, and intake policy specifying kinds of children to be accepted
for care;
a. A copy of the constitution and bylaws;
a. A list of officers, board members, and advisory board members;
if any, including addresses and professions;
a. Names and titles of officers and terms of office;
a list of all staff including positions or title and qualifications; and
(a) Applications for a child-caring facility license shall be in compli-
ance with the applicable regulations or shall have submitted an ac-
ceptable plan for correction of violations relating to the particular child-
caring facility. Compliance with licensure regulations shall be ascer-
tained through on-site inspections of the child-caring facility. Repre-
sentatives of the division shall access the child-caring facility at
random. Regulatory violations identified during these inspections shall
be transmitted in writing to the child-caring facility by the division.
The child-caring facility shall submit a written plan for the elimination
or correction of the regulatory violations to the inspecting agency within
ten (10) days. The plan shall specify the dates by which each of the
violations shall be corrected. Following a review of the plan, the divi-
sion shall notify the child-caring facility in writing of the acceptability
of the plan. If a portion or all of the plan is unacceptable, the division
shall specify the reasons for the unacceptability. In these cases, the
child-caring facility shall modify and resubmit the plan within ten (10) days.
2. A license shall be issued by the Cabinet for Families and Chil-
dren when:
a. The facility has been approved by the State Fire Marshal; and
b. The facility has been surveyed by the Cabinet for Families and
Children and it is determined that the facility qualifies for licensure;
(c) Renewal licensure. Facilities shall be relicensed annually from the
date of issuance of the original license. To be eligible for relicen-
sure, the facility shall:
a. Submit a renewal application;
b. Submit a relicensure fee of eighty-five (85) dollars; and
(c) Comply with the applicable portions of this regulation;
(d) Every child-caring facility shall provide the following informa-
tion as part of the annual inspection:
a. A list of officers, board members, and advisory board members;
if any; including addresses and professions;
a. Names and titles of officers and terms of office; and
2. A list of all staff including positions or title and qualifications;
(d) The facility shall have an annual audit completed by an inde-
pendent-certifying firm; certified public accountant.
(e) The facility shall comply with its mission statement, child-caring
program narrative, and all applicable federal and state regulations in
regard to child-caring program operations.
(f) Applications for renewal licensure shall, as a condition preced-
ent to licensure or relicensure, be in compliance with the applicable
regulations relating to the particular child-caring facility. Compliance
with these regulations shall be ascertained through on-site inspections
of the child-caring facility. The inspection procedures for relicen-
sure shall be the same as set forth in paragraph (a)(i) of this subsec-
section.
(g) The license shall specify the types of care and service the facili-
ty is authorized to provide based upon the application and inspection.
(h) The facility shall provide only the types of care and services for
which they are licensed.
(i) The licensed capacity of the facility shall not exceed the capac-
ity specified by the State Fire Marshal's Office and the division.
(j) A license shall be issued for a specific physical location and for
operation by a sponsoring organization:

(1) Licenses shall not be transferable;

(2) If a circumstance covered by the license changes, notification of the following shall be made to the division in advance to allow for approval before implementation:
   a. Ownership or sponsorship;
   b. Location;
   c. Capacity; and
   d. Services;

(m) The facility shall post its license in a place visible to the public;

(2) Board of directors.
   (a) The child-caring facility shall have a board of directors pursuant to KRS 271B.08 (consisting of a minimum of seven (7) members, the majority of whom shall be residents of Kentucky);

(c) The board of directors shall consist of a minimum of seven (7) members;

(d) The board of directors shall meet at least quarterly. Minutes of the meeting (these meetings) shall be taken and kept in written form.

(e) At least one (1) board meeting shall be held at each facility or agency in every calendar year, if a board of directors has responsibility for multiple facilities; a board committee;
   1. May be appointed to meet at least once a year at each facility; and
   2. Shall submit a written report of this meeting to the board;

(f) The board of directors shall employ an executive director. The division shall be notified in writing of a change of the facility’s executive director within seven (7) days;

(g) The board of directors shall be responsible for and have the authority to ensure the continuing compliance with the requirements of this administrative regulation and all other relevant federal, state or local laws or regulations.

(h) The board of directors shall have procedures in place to ensure that the staff receives ongoing training pursuant to 922 KAR 1:300.

Section 306 (b).

(1) The board of directors shall conduct and approve an annual evaluation of the performance of the executive director.

(2) The board of directors shall approve a written annual budget for the agency which ensures funding to meet all operating requirements;

(3) The board of directors shall review the written policies of the facility.

(f) The board of directors shall obtain a criminal records check of prior convictions or pleas of guilty of the executive director prior to employment.

(g) The board of directors shall approve a mission statement delineating:
   1. The purpose;
   2. Objectives; and
   3. Scope of services to be provided.

(3) Executive director.

(a) The duties of the executive director shall be determined by the board of directors (and shall include the following responsibilities):
   1. Select, employ, and terminate staff;
   2. Develop and implement facility policies as approved by the board of directors;
   3. Provide professional help to the board of directors in:
      a. Carrying out their responsibilities;
      b. Interpreting the needs of the children and families served; and
      c. Assisting in periodic evaluation of the facility’s services;
   4. Supervise the preparation of an annual budget for board consideration;
   5. Keep the board informed of financial needs;
   6. Provide financial statements on at least a quarterly basis;
   7. Operate within the established budget;
   8. Attend board meetings;
   9. Ensure that orientation is provided for all new employees and continuing training for all staff; and
   10. Delegate appropriate duties to other staff.

(b) The executive director shall be responsible for the child-caring facility and its affiliates in accordance with the child-caring facility's written policy.

(c) If the executive director is not on the premises, a designated staff person shall be responsible for the day-to-day operation (operation) of the child-caring program.

(d) The executive director shall oversee and report to the board on a quarterly basis:

1. An evaluation of program services and address measurable goals, staff training, and incident reports; and

2. The criteria and process of this evaluation shall be approved by the board.

(e) Staff qualifications.

(a) A person [Person] employed as an executive director after the effective date of this administrative regulation shall possess the following qualifications:

1. A master's degree in a human services field, supplemented by two (2) years of work experience in management of a human services program, including:
   a. An executive director shall possess a Master's degree in the human services field(s) including:
      a. Social work;
      b. Sociology;
      c. Psychology;
      d. Guidance and counseling;
      e. Education;
      f. Religion;
      g. Business administration;
      h. Criminal justice;
      i. Public administration;
   b. [H]Child care administration;
   c. [H]Christian education;
   d. Divinity;
   e. Pastoral counseling;
   f. Nursing;
   g. Family studies; or
   h. Other human service field related to working with a family and a child; or

2. A bachelor's degree in a human services field, supplemented by four (4) years of work experience in management of a human services program, including:
   a. Social work;
   b. Sociology;
   c. Psychology;
   d. Criminal justice;
   e. Guidance and counseling;
   f. Education;
   g. Christian education;
   h. Divinity;
   i. Pastoral counseling;
   j. Religion;
   k. Business administration;
   l. Public administration; or
   m. Child care administration, [families and children]; and

(b) A person employed by the child-caring facility in a position

Two (2) years of work experience in management of a human services program or a Bachelor's degree with a major in social work, sociology, psychology, criminal justice, guidance, and counseling, education, Christian education, divinity, pastoral counseling, religion, business administration, public administration, or child care administration and four (4) years work experience in human services programs.

(c) Persons employed after the effective date of this regulation other than the executive director employed in positions responsible for supervising, evaluating, or monitoring social work and related activities (or other treatment staff) shall possess at least:

1. A master's degree in the human services area including the areas of:
   a. Social work;
   b. Sociology;
   c. Psychology;
   d. Guidance and counseling;
   e. Pastoral counseling and religion; and

2. Two (2) years work experience in the human services field.

(c) An employee [Employed] responsible for social work, counseling, or planning and coordinating these services to a child [children] shall have at least a Bachelor's degree in the human services field.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(d) A person [person(s) employed in a position [positions] responsible for supervising, evaluating, or monitoring the daily work of direct child-care staff shall possess at least:
1. Two (2) years of college and two (2) years of work experience in a child-caring facility; or
2. A high school diploma or an equivalency certificate and at least five (5) years work experience in a child-caring facility.

(e) A person [person(s) employed in a position [positions] responsible for the daily direct care or supervision of a child shall possess at least [children after the effective date of this regulation shall possess] a high school diploma or equivalency certificate. If an employee is responsible for varied job responsibilities and falls within more than one (1) of the categories specified, the employee shall meet those qualifications that [which] are the most rigorous.

(g) A child-caring facility contracting for the services of a social worker or behavioral health professional not on the staff of the child-caring facility shall document that the social worker or behavioral health professional meet the qualifications pursuant to paragraphs (b) and (c) of this subsection. An agreement for this provision of service shall be on file at the child-caring facility and shall specify the qualifications of the social worker or social services professional.

(5) Staffing requirements.
(a) The child-caring facility shall have a written policy describing a child-to-direct-child-care staff ratio that is at least consistent with the state child-caring facility staffing ratio or those required for the types of child-caring facility program in Section 2(2) of this administrative regulation and an explanation of [This policy shall explain] the assignment of these staff to:
1. Ensure the health and safety of a child; [children] and
2. [Implement the child-caring program.]
(b) Staff who are required to meet the state or national professional standards set forth in their job description shall document compliance with those standards.
(c) There shall be at least one (1) staff member present in each child-caring facility building if a child is present and [facility building if children are present if] the staff-to-child ratio pursuant to paragraph (d) of this subsection [specified in subsection (c) of this section] are met.
(d) [There shall be at least one (1) direct care staff member to provide supervision for the following:
1. Each (10) children or fraction thereof if children are present; and
2. At least [There shall be at least one (1) direct care staff member for each five (5) children or fraction thereof under age six (6) if children are present.
(e) The child-caring [(e)–The] facility shall have a written work schedule and a policy that provides [providing] for utilization of relief staff.
(f) The child-caring [(e) – The] facility shall employ an individual who is responsible for the overall planning and coordinating of social services to a family and child [families and children].

(ii) If a staff member is required to work more than six (6) consecutive days he shall be granted at least twenty-four (24) consecutive hours of rest. If a staff member is required to work seven (7) consecutive days he shall be granted at least forty-eight (48) consecutive hours.

(g) Social services staff shall not carry a case load of more than fifteen (15) children and their families.
(6) Personnel policy.
(a) A child-caring facility shall have written personnel policy and procedures.
(b) An employee of the child-caring facility shall be eighteen (18) years of age. [Policies:]
(a) All employees shall be at least eighteen (18) years of age. This does not include children involved in the facility's work program.
(b) There shall be a written job description which shall be reviewed and revised if necessary for each position which describes:
1. The duties of the position;
2. The skills required to perform the position; and
3. Identifies the immediate supervisor of the position;
(c) An individual shall not be employed if a criminal records check reveals a prior criminal conviction or plea of guilty to charges:

1. Pursuant to KRS Chapter 510 offense or a Class A or Class B felony;
2. Of a sexual offense pursuant to KRS 510.040 to 510.140, 510.150, 529.020 to 529.050, 530.020, 530.064, or 531.300 to 531.370;
3. Of a crime of abuse, neglect or exploitation of a child, pursuant to KRS 508.100, 508.110, or 508.120, or a crime resulting from a criminal charge filed pursuant to KRS 620.120; or
4. As a violent offender, pursuant to KRS 17.185(2).
(d) An individual shall not be employed if he:
1. Has had an allegation of abuse, neglect or exploitation of a child, pursuant to KRS 620.020(1), substantiated by the cabinet pursuant to KRS 508.130 and if appealed, KRS 508.130; or
2. Is listed on the Nurse's Aide Abuse Registry by the Kentucky Board of Nursing.
(e) An employee under indictment or legally charged with felony conduct shall be immediately removed from contact with a child within the child-caring facility until the employee is cleared of the charge. [Upon employment personnel shall receive written facility policies and procedures to include the following:
1. Salaried plan;
2. Leave provisions;
3. Working conditions;
4. Fringe benefits;
5. Employment and termination;
6. Job descriptions;
7. Staff evaluations;
8. Provisions for staff development;
9. Employee grievance;
10. Disciplinary action; and
(f) Personnel orientation. Within one (1) month of initial employment personnel shall receive an orientation to facility policies and procedures.
(g) A current personnel record [personnel records] shall be maintained for an employee that includes [each employee which includes] the following:
1. Name, address, Social Security number, date of employment, and date of birth;
2. Evidence of a current registration, certification, or licensure;
3. Record [Records] of participation of staff development;
4. Record [Records] of performance evaluation;
5. Criminal records check pursuant to paragraph (c) of this subsection;
6. Record [Records] of physical exam [exams] related to employment as specified in the child-caring facility's policy;
7. Personnel action [actions];
8. Application for employment and resume or contract; and

(h) The criminal records check requires a prior criminal conviction or plea of guilty pursuant to KRS Chapter 510 or a Class A felony, the applicant shall not be employed.
(i) The child-caring facility shall assure that at least one (1) staff person who is certified in first aid and cardiopulmonary resuscitation (CPR) is on the premises if a child is [children are] present.
(j) The child-caring facility shall have an ongoing staff and volunteer development program [for the administrative, professional, volunteer, and support personnel].
1. Records of attendance at workshops, conferences, and academic courses related to work responsibilities shall be kept on all employees.
2. The staff development program shall be under the supervision of a designated staff member; and
3. [As required] Direct child care staff shall have at least forty (40) hours of annual training in the following:
   a. Emergency and safety procedures;
   b. Principles and practice of child residential [Principles and practice of child care];
   c. Behavior management including de-escalation training; and
   d. First aid; and
   e. Personal orientation.

(i) A volunteer who functions as a professional or direct staff member without compensation [An employee under indictment or legally charged with felonious conduct shall be immediately removed...]}
FROM CONTACT WITH CHILDREN WITHIN THE FACILITY UNTIL THE EMPLOYEE IS CLEARED OF THE CHARGE.

(j) Volunteers who perform similar functions as paid staff shall meet the same general requirements and qualifications.

(f) Facility policies. There shall be written administrative policies which the facility follows covering all aspects of operation including:

(a) Administration;
(b) Personnel;
(c) Fiscal management;
(d) Physical plant;
(e) Case records;
(f) Child-caring program;
(g) Health and safety;
(h) Internal review and evaluation;
(i) Transportation of children;
(j) Description of organization structure, staffing, and allocation of responsibility and accountability;
(k) All written program narrative describing in detail:
   1. The services and programs;
   2. Methods and protocols for service delivery;
   3. Goals of the services; and
   4. Grievance procedures for children;
(l) Internal review and evaluation;

(3) Each facility shall provide and conduct a self-evaluation of its services at least every three (3) years from the effective date of this regulation;

(3) Specific written criteria and procedures for evaluating the facility performance and management shall be established. These shall be approved by the board of directors:

(a) The required evaluation shall examine the following factors:
   1. Child-caring program content in relation to the stated role and purpose of the facility;
   2. Child-caring program effectiveness based on stated and measurable goals;
   3. Roles of the board of directors and management staff;
   4. Personnel policies;
   5. Staffing patterns and job responsibilities;
   6. Staff effectiveness;
   7. Staff turnover, causes, and effects;
   8. Staff training program;
   9. Budgeting and fiscal management;
   10. Physical facility management;
   11. Classification of children;
   12. Admissions, planned and unplanned discharges, and length of stay of children in care;
   13. Emergency and safety procedures;
   14. Dietary and menu evaluation;
   15. Content of the treatment program as related to the needs of the child and family as based upon a random review of treatment plans;
   16. The service continuum from intake through aftercare;
   17. The care-giving program, including practices in regard to food, sleep, personal possessions, clothing, health, discipline, recreation, religion, and education;
   18. Review of incident reports;
   19. A copy of the three (3) year evaluation shall be kept on file at the facility and a copy shall be given to each member of the board of directors.

(3) Accreditation by the Council on Accreditation sponsored by the Child Welfare League of America or the Joint Commission on Accreditation of Health Care Organizations shall substitute for the three (3) year evaluation:

(4) The facility shall ensure that the rights of children and their families regarding that of confidentiality, are protected in all phases of evaluation. Services shall not be denied or restricted to any client based upon his participation or lack thereof in the evaluation process.

(2) Interstate placement [placements].

(a) Prior to accepting a child from another state or prior to placing a child outside Kentucky, the child-caring facility shall be in compliance with:

1. [comply with all Applicable provisions of KRS 615.030 to 615.040, Interstate Compact on Placement on Children; and
2. KRS 615.010, Interstate Compact on Juveniles.]

(b) If a child committed to the cabinet makes a brief visit out of state, not accompanied by child-caring facility personnel, the child-

caring facility shall obtain prior consent from the social service worker in the cabinet [Department for Community-Based Services] who has casework responsibility.

(c) If an emergency placement of a child into a licensed child-
caring facility is made, compliance with KRS 615.030 to 615.040 shall be the responsibility of the placement source [placement agency]. If the receiving child-caring facility is aware of noncompliance by the placement source, the child-care facility shall notify the cabinet's interstate compact coordinator [placement agency]; then compliance shall become the responsibility of the receiving facility.

Section 4. Physical Plant (1) A child-caring facility [Facilities] shall comply with applicable state and local law and administrative regulation [laws and regulations] relating to:

(a) Construction;
(b) Sanitation; and
(c) Maintenance of the building [buildings].

(2) The child-caring facility shall conform to the life safety code standards adopted by the State Fire Marshal's Office.

(3) A climate control system shall be provided as follows:

(a) A minimum temperature of sixty-five (65) degrees Fahrenheit shall be maintained in occupied areas in cold weather conditions;
(b) In warm weather conditions and periods of extreme heat, an [the facility shall assure that] occupied area is to be [areas are] properly ventilated;
(c) If a facility is not air-conditioned and the temperature in an occupied area exceeds eighty-five (85) degrees Fahrenheit, the child-
caring [the] facility director shall assure that the following occurs:
   1. A fan is [If the facility temperature in occupied areas exceeds eighty-five (85) degrees Fahrenheit that fans are] utilized to circulate air;
   2. The child-caring facility is properly ventilated to outside air;
   3. [that] Ice water is readily available and served to residents; and
   4. [that] Staff frequently monitor residents for signs and symptoms of heat related illness.

(4) The water supply shall be from an approved source and easily available from the following:

1. Drinking fountain;
2. Refrigerator or
3. Fountains, the refrigerator, or Cold water tap.

(5) A plumbing and waste disposal system [systems] shall comply pursuant to KRS 198B.050 to 198B.090, and [with state-plumbing standards regarding waste disposal systems as governed by KRS 211.350 to 211.380.]

(6) Housekeeping and maintenance service [services].

(a) [Housekeeping] The building and its content [buildings] shall be maintained in a clean and safe condition and in good repair.

(b) A maintenance plan shall be maintained.

(c) Maintenance: Requirements shall include:
   1. Gas stoves, gas furnaces, gas heaters, and gas water heaters shall be ventilated to ensure the safety of the building's occupancy;
   2. The child-caring facility shall ensure that the grounds and outdoor equipment are well kept and the exterior of the building is in good repair;

   (d) [including the sidewalks, steps, porches, ramps, and fences are in good repair;]

   (e) The interior of the building and its content shall be in good repair;

   (f) [Including walls, ceilings, floors, windows, window coverings, doors, plumbing, and electrical fixtures shall be in good repair. Windows and doors which may be opened for ventilation shall be screened;

   (g) Garbage and trash shall be;
   1. Stored in an area [areas] separate from those used for the preparation and storage of food;
   2. [and shall be] Removed from the premises regularly; and
   3. Placed in a container that is [Containers shall be] cleaned regularly.

   (h) [and]

   (i) A pest control program shall be in operation in the child-caring facility as follows:

   1. [Pest control services shall be] Provided by maintenance personnel of the child-caring facility; or
   2. By contract with a pest control company; and

   (i) [and]
3. The Pest control compounds [shall-be] stored in a locked area.

(7) Bedroom.
(a) A bedroom shall be:
   1. [的空间(6) shall be]:
   2. [Bedrooms, shall be]:
   3. Of adequate size to permit at least three (3) linear feet between each bed or set of bunk beds; and
   4. Constructed to allow for new and constructed buildings after the effective date of this regulation shall have bedrooms having not more than four (4) residents per room.

(b) A bedroom sleeping a child [Bedrooms sleeping children] above age three (3) shall be equipped with an individual bed for a child that shall be:
   1. [individual beds for each child; each bed shall not be less than thirty (30) inches wide nor less than five (5) feet in length and shall be]
   2. Long and wide enough to accommodate the child's size;
   3. Developmentally appropriate for the child; and
   4. [Children under the age of three (3) shall be provided with a sturdy crib or baby bed. Each bed shall be equipped with]
   5. A crib or baby bed used by children shall be:

(c) A bed occupied by a child [Beds occupied by children] shall be placed so that a child shall not experience discomfort because of;
   1. Proximity to a radiator;
   2. [radiator];
   3. Exposure to drafts.

(d) For a room that is not heated by an A/C, there shall be separate sleeping quarters for boys and girls over the age of five (5).

(e) Closet space and drawer space shall be provided for a [each child to accommodate personal belongings.

(f) A child [Children] shall not be housed in a room, detached building, or enclosure that has not been previously inspected and approved for resident use.

(g) Each child shall be provided with appropriate clean bed linens laundered once a week at the minimum and a waterproof mattress covering [clean sheets, pillowcases, a pillow, and blankets. Sheets and pillowcases shall be changed and laundered at least weekly, and as frequently as needed. Waterproof mattress coverings shall be provided.]

(h) Indoor living area. An indoor living area shall be:[(a)]
   1. [An indoor living area of at least thirty-five (35) square feet per child shall be provided by the child-caring facility; and]
   2. [Indoor living spaces shall be provided with comforter furnishings for the number of children served.]

(i) Bathroom.
   1. For every six (6) children residing with the living unit, a bathroom shall:
   2. Each living unit shall have a minimum of:
   3. One (1) wash basin with hot and cold water;
   4. One (1) flush toilet; and
   5. One (1) bath or shower with hot and cold water [for every six (6) children, one separate toilet; for each child in the living unit.]
   6. A child shall be provided with access to:
   1. Each bathroom shall be supplied with a [toilet paper; towels; soap; and]
   2. A bathtub and shower shall have an enclosure or screen (tub and showers shall have enclosures or screens) for individual privacy. If more than one (1) toilet is located in the same bathroom, a [toilet shall be:

   1. Be partitioned; and
   2. Include a door capable of remaining closed.

   A] (A) [Each] (B) [Each] bathroom shall contain at least one (1) nondistorting mirror secured to the wall at a convenient height.

Section 5. Health, Safety, and Nutritional Requirements. (1)

3. [The] (A) A child-caring [Every facility shall have written policy and procedure [policies and procedures] for;
   1. Health; and
   2. Medical care to include:
   a. A provision [including provisions] for illness; and
   b. Emergency care.
   c. The service [services] of a physician shall be made available to a child. If a service [the services] of a licensed physician is [are] not available in the community, the child-caring facility shall request the assistance of the;
   1. County health department; or
   2. The Cabinet for Health Services, Department for Public Health, Division of Adult and Child Health, located at 200 West Main Street, [Division of Maternal and Child Health, located in]
   3. Franklin County, Kentucky.
   (c) Staff shall follow licensed physician orders for;
   1. Medicines;
   2. [prescriptions]; and
   3. Medical care.
   (d) With the exception of a weekend and holiday, within forty-eight (48) hours of admission to a child-caring facility, a facility excluding weekends and holidays, and annually thereafter, each child shall have [scheduled];

   1. An initial health screening for illness, injury, and communicable disease or other immediate needs by a nurse or trained child-care staff.
   2. After the initial health screening a physical examination by a licensed physician or under the supervision of a licensed physician shall be performed within (2) weeks of admission.
   3. The examining licensed physician shall report in writing observations and findings including;
   a. [Informational history of the child, illnesses, operations, and immunizations if available to the physician;
   b. A limitation [2-Any limitations] the child may have that [which] may prevent participation in an activity (activities) scheduled by the child-caring facility;
   c. [Visual and auditory examination;]
   d. Recommendation and order [examinations;]
   e. Recommendations and orders for future care, treatment, and examinations;
   f. TB skin test [tests] unless contraindicated by a physician; and
   g. Any other tests for communicable disease as indicated by the medical and social history of the child.
   (e) An annual physical examination shall be scheduled and documented pursuant to paragraph (d) of this subsection.

   Upon admission, the child-caring facility shall consult with a physician if there is evidence that the child may require medical attention.
   (f) The child-caring facility shall develop a procedure for a child requiring a specific provision for an infectious medical condition.
   (g) A separate health record shall be maintained for a child; each child. Health records shall be kept on the premises, and be made available to:
   1. Physician;
   2. Nurse; or
   3. Designated staff.
   (j) The health record shall contain the following:

   1. Copy of each [annexed] physical examination, including any recommendations for treatment;
   2. Previous and continuing health and medical history if available;
   3. Record or report of each test, immunization, periodic reexamination, and physician order and instruction;
   4. Report and date of each dental examination and treatment [Records of reports of tests, immunizations, periodic reexaminations, and physicians orders and instructions;]

   4. Reports and dates of dental examinations and treatments;
   5. Authorization for regular and emergency medical, dental, and surgical care signed by the legal custodian holder upon admission;
   6. Documentation of all medication administered to the child; and
   7. Documentation of a special provision [all special provisions] made for the child pursuant to a physician order.
with a Red Cross certified lifeguard pursuant to KAS 10:120,
Section 135(2)(c). [Sports activities shall be supervised by staff. The presence
of a Red Cross Certified Lifeguard shall be required if children
using the facility has a swimming pool, it shall conform to applicable
state statutes and regulations.]
(c) Donated home processed foods are prohibited.
(d) Transportation.
1. If transportation is provided directly, contracted for, or arranged,
a child-caring facility shall require:
(a) Compliance [by facility, these requirements shall apply;
(b) The facility shall comply with state laws pertaining to vehicles,
drivers, and insurance.
(c) A seat for each child and that the child [Each child shall have a
seat] and remain seated while the vehicle is in motion;
(d) A seat belt [if provided, shall be used to secure the child [each
individual child].
(d) A vehicle used to transport a child off campus to provide a seat
[All vehicles used to transport a child off campus shall have seats for
each passenger as manufactured standard equipment; and
(e) That a child [A vehicle containing children] shall never be left
unattended in a vehicle.
2. [and]
(f) The maximum number of children, including a child [if any are]
under the age of six (6), a driver shall supervise alone is five (5). The applicable staff-child ratios pursuant to Section 260(6) of this
administration regulation shall apply after this number.
3. A child [Children] under forty (40) inches tall or forty (40)
pounds in weight shall not be transported unless restrained in an approved
safety seat pursuant to KAS 189.125(3).
4. A [The vehicle shall not pick up and deliver a child [children]
under the age of six (6) to a location that [which] requires the child to
cross a [the] street or highway unless accompanied by an adult.
5. If transportation is provided by a [The following standards shall be met if transportation is provided by any] means other than
licensed public transportation:
(a) The vehicle shall be maintained in a safe mechanical and operable
condition;
(b) A thorough inspection of the vehicle shall be made and docu-
cmented by a qualified mechanic at least annually; and
(c) If the driver is not in his seat, the motor shall be turned off, keys
removed, and brake set.
(3) Nutritional requirements.
(a) A child [Children] shall be served nutritious meals that:
1. Meals shall meet the nutritional guidelines of the U.S. Depart-
ment of Agriculture that includes [which includes] foods from the five
basic food groups; and
2. The amount accommodates the needs of a child [amount shall
accommodate the needs of each child] as to age, activity, [of each
child in care], and prescribed diet or ITP.
(b) [Each child] shall be encouraged to eat the food served, but
shall not be subjected to coercion.
(c) An order for a modified diet from a licensed physician [Orders
for modified diets from licensed physicians] shall be followed by the
child-caring facility.
(d) A menu [Menus] shall be planned at least one (1) week in
advance, dated, posted, and [shall be dated and posted. Menus shall be]
kept on file for one (1) year.
(e) With the exception of a child receiving a meal at school, three
(meals a day shall be provided at regular intervals and, except for
weekends and holidays, no more than fourteen (14) hours lapse be-
tween the evening meal and the morning meal] [At least three (3) meals a
day shall be provided at regular intervals, except if children receive
meals at school] [No more than fourteen (14) hours shall lapse be-
tween the evening meal and morning meal except for weekends
and holidays.
1. A nourishing snack [Nourishing snacks] shall be provided and
may be part of the daily food needs but [they shall] not replace a
regular meal and [regular meals. These snacks shall be recorded on
the menu.]
2. A meal [Meals] shall be scheduled at set times each day so that
one (1) minimum hot meal a day is [meals are] not hurried, allowing
time for conversation.
3. Food shall not be used as a punishment.
4. Only pasteurized milk and milk products and U.S. Government
inspected meat shall be served to a child [the children].

5. Food [meals] shall be prepared to preserve nutritive value and heighten flavor and appearance.

6. A child and staff shall [children and staff are to] be served the same food unless there is a difference in age or a special dietary or religious preference need is a factor [food unless differences in age or special dietary needs are factors].

(f) Table service shall be provided for a child [all those] capable of eating at a table.

1. Tables and chairs shall be:
   a. Of a height that [which] corresponds to the size of the child served.
   b. [Children served. They shall be] Constructed of material that can be easily sanitized.

2. A child who has not had an opportunity [Children who have not had opportunities] to learn how to handle food with the usual table service shall be managed in a way that he shall [they will] not be embarrased or subjected to ridicule.

(g) A written report of a food inspection [Person handling food should] shall be kept and records shall keep their hands and fingernails clean while handling food, drink, utensils, or equipment.

(h) Written reports of sanitary inspections by municipal, county, or federal authorities shall:
   1. Be kept on file at the child-care facility; and
   2. [Facility. The sanitation of facilities shall] Meet local, state, and federal regulations.

(i) If a child-care facility subcontracts a food service [food services], all applicable federal and state administrative regulations shall apply.

Section 5. General Requirements.

1. An incident of suspected child abuse or neglect shall be reported pursuant to KRS 620.020(1) and (2).

2. A child shall not be exploited, abused or neglected:
   a. For promotional purposes; and
   b. In a manner that shall cause the child or family to [Promotional use of children.]

   (a) Exploitation of children for promotional purposes is prohibited.
   (b) Children shall not be used in any manner in which they or their family could suffer discomfort or embarrassment.

   (c) Except as indicated in paragraph (d) of this subsection, a child [Each] child shall be used in a manner in which they or their family could suffer discomfort or embarrassment.

   (d) If pictures, slides, recordings, or other private and personal effects of a child [children] are used in a fund-raising or promotional effort of a child-care facility, written permission shall be obtained from a [children's] parents or guardian.

   1. Parent or guardian; or [Written permission shall be obtained from parents or guardians.]
   2. [If the child is committed to the Cabinet for Families and Children; permission shall be obtained from an] Authorized representative of the cabinet, Department of Juvenile Justice or authorized legal representative.

   (e) [Clothing and personal possessions.]

   (f) [The child-care facility shall provide a child with clothing and footwear that which] is clean, well-fitting, and seasonable.

   (g) [Clothing shall be age and sex appropriate and acceptable according to the standards of the surrounding community.]

   (h) [Each child shall be provided individual articles of personal hygiene.]

   (i) The child-care facility [The facility shall allow a child [children] to have personal belongings and property consistent with this administrative regulation and child-care facility policy [the regulations and facility policies.]

   (j) A child's [The] child's money.

   (k) The child-care facility shall have written policy and procedure [policies and procedures] relating to money belonging to a child [children].

   (l) A child shall have access to information regarding balance of his fund.

   (m) If arrangements are not made with a financial institution for the establishment and maintenance of children's accounts, the facility shall:

   1. Establish an account for each child who wishes to have an account; and
   2. Shall provide each child who maintains an account with a quarterly written report of the account's balance, deposits, withdrawals, and interest earned.

   (n) The facility shall give each school-age child a weekly allowance.

   (o) Within thirty (30) days of discharge, funds belonging to a child shall be transferred with or returned to the child.

   (p) [44] Visitation and communication shall include:

   (a) Written policy on [The facility shall have written policies concerning] visitation and communication;

   (b) An arrangement for visitation that is [The facility shall ensure that arrangements for visitation are] not in conflict with the ITP.

   (q) Documentation of the visit in the case record; and [All scheduled visits shall be documented in the case record.]

   (r) Access to a telephone to make and receive a telephone call pursuant to the ITP and child-caring policy [The facility, in accordance with the ITP and agency policy, shall allow a child access to a telephone to permit the child to make and receive a telephone call].

   (s) [55] Religion, culture, and ethnic origin [heritage].

   (a) Consideration and sensitivity shall be given to:

   1. The facility shall demonstrate consideration for and sensitivity to the racial, cultural, ethnic, or religious background of children [backgrounds of children] in care.

   (t) An activity appropriate for the child's cultural or ethnic origin.

   (u) With the exception of a religious practice that is destructive, an opportunity shall be provided [land-encouraged] for a child to:

   1. Practice the religious belief and faith of the child's individual or family preference; and

   2. [The facility, in conjunction with the custodian, shall make available to a child in care cultural or ethnic activities appropriate to the child's cultural or ethnic background.]

   (v) Opportunity shall be granted each child in care to practice the religious beliefs and faith of the child's individual or family preference if the practice is not destructive. A child may be encouraged to participate in a religious activity without coercion.

   (w) [Religious activities, but shall not be coerced to do so.]

   (x) Education.

   (a) If a child-care facility operates its own school program, it shall have a policy and procedure [policies and procedures] regarding the development and implementation of the educational program. The policy and procedure [These policies and procedures] shall include:

   1. School attendance;
   2. Teaching staff;
   3. School records;
   4. Educational supplies, equipment, and facilities; and
   5. Individual educational plan [plans] and use of community school.

   (b) A child-care facility [Facilities shall ensure that a child attends] the child attends [the children attend] an accredited educational program for the number of days required by law.

   (c) [An] Each child shall be enrolled in an accredited educational program within one (1) week of admission.

   (d) A school-age child who is [School age children who are] ineligible or unable to attend an accredited school shall have an educational program specific to the individualized need of the child that [needs of the child which] may include a General Education Diploma or vocational training.

   (e) If a child-care facility operates the child-care facility [facilities operate their own educational program [programs], maintenance of school records shall comply with state law and administrative regulations of the educational board [boards] having jurisdiction.

   (f) The child-care facility shall provide a quiet area and designated time for study.

   (g) [46] Work and chore assignment [assignments].

   (a) An assigned chore or work assignment shall not place the child in physical danger.

   (b) A chore assignment shall be posted within the child's living quarters and visited with.

   (c) A child may be given a job in compliance with child labor laws for which he receives payment that [Children may be given jobs for which they receive payment which] shall be clearly differentiated from
a [chore or chores] expected of him [any child] in relation to the routine [routines] of daily living to be completed. [This work shall be done in compliance with child labor laws.]

d) A child intentionally destroys or damages property or equipment, the child may be required to make restitution.

e) A work assignment outside of a daily routine chore at the child-caring facility shall not be used as a form of punishment. An [additional] chore assignment [assignments] beyond what is regularly assigned to a child may be:

1. Performed as restitution for intentional property damage made by the child;
2. [Additional chores or work assignments may be] Given to a child for violation of a child-caring facility rule [rules only] upon mutual agreement between the child and supervisory child-caring staff without the child being [-The child shall not be-] coerced to enter into an agreement.

(f) A child [Children] shall be given a rest period [rest periods] of at least ten (10) minutes during each hour worked.

(g) Use of a child to perform a chore or work assignment [children to perform chores or work assignments] shall not negate the child-caring facility's ultimate responsibility for the maintenance of the child-caring facility nor the employment of staff sufficient to maintain the child-caring facility.

(h) [§ 625.235(9)] Discipline.

(i) A child-caring facility [Facilities] shall have written policy and procedure governing a disciplinary action [policies and procedures governing disciplinary actions].

(j) Discipline shall be:

1. Utilized as an educational tool and be related to the child's actions initiating the disciplinary process; and
2. Consistent [consistent with] with the child's ITP and in response to the child's lack of control or misbehavior.

(k) The entire group shall not be punished due to the misbehavior of one (1) or more individual group members.

(l) The following practices shall not be allowed:

1. Cursing;
2. Screaming;
3. Name calling;
4. Threatening of physical harm;
5. Intimidation;
6. Humiliation;
7. Denial of food or sleep;
8. Corporal physical discipline, pursuant to KRS 199.640(6); [Spanking]

(i) Hitting;
(ii) Unnecessarily rough handling;
(iii) [Paddling or]
(iv) Any other physical punishment; and
(v) [§ 625.235(9)] Denial of visitation with family or custody holder as punishment.

(m) With the exception of a parent disciplining a child, a child [Children] shall not directly discipline another child [other children].

(n) Handcuffs, weapons, mechanical restraining, chemical restraints, or other restraining devices shall be:

1. In sight or sound of staff; and
2. Checked by staff [shall check child] at least every five (5) minutes until it is determined the child is ready to continue a normal activity [normal activities].

(o) Therapeutic hold [Safe physical restraint] shall be used only by trained staff and to prevent:

1. A child from injury to self or others; or
2. Serious property damage or [to prevent serious] disruption of the child-caring facility's program and only after attempts to deescalate a child.

(p) Therapeutic hold [Safe physical restraint] shall not be used as;

1. Punishment; or
2. For the convenience of staff.

(q) In a child-caring facility where therapeutic hold [facilities where safe physical restraint] is used, the child-caring facility shall require:

1. Clear [have clearly] written policy and procedure [procedures] governing the therapeutic hold of a child; and

2. [Safe physical restraint of children:] Staff who conduct therapeutic holds to be [Direct child-caring staff] [shall be] trained in the methods of de-escalation and therapeutic hold [methods of safe physical restraint] utilized by the child-caring facility shall have a minimum of sixteen (16) hours of annual training as part of the forty (40) hours training required in Section 3(6)(b)(2) of this administrative regulation.

(r) The program director shall [daily review and analyze instances of therapeutic hold to:]

1. Assure [the use of safe physical restraint to assure] compliance with child-caring facility policy; and
2. Provide documentation of a plan of action to prevent repeat injury to a child or staff as a result of the use of therapeutic hold. [Policies:

(i) The entire group shall not be punished due to the misbehavior of one (1) or more individual group members;
(ii) Suspected child abuse or neglect. Staff shall report all incidents of suspected child abuse or neglect in accordance with KRS 625.235(1) and (2);]


(a) The child-caring facility shall have clearly defined written policy and procedure for an admission that identifies [policies and procedures for admissions that identify] the age, sex, and detailed description of the type of child served.

(b) Acceptance of a referral shall be based on the assessment that the child's need is one that:

1. The service [which the services] of the child-caring facility is [are] designed to address; and
2. Which cannot be met in a less restrictive setting.

(c) The child-caring facility shall not accept into care a [any] child for whom a service [services] cannot be provided based on the child-caring program's mission statement and [child-caring program's] narrative and the available resources.

(d) [§ 625.235(9)] The child-caring facility shall have a written placement agreement with the child's custodian.

(e) [§ 625.235(9)] There shall be a prediscussion interview with the child.

(f) [§ 625.235(9)] The following information regarding the child shall be obtained by the child-caring facility from the child's custodian during intake or documentation that information was requested and not available:

1. Commitment order or signed voluntary admission form;
2. Verification of birth;
3. Immunization record; and
4. Social history and needs assessment that [which] includes medical, educational, developmental, and family history.

(g) [Written consent [§ 625.235(9)] pertaining to the child's care shall be obtained from the child's custodian for:

1. Photograph [Photographs], video, and audio tape [tapes];
2. Emergency and routine medical care; and

(h) [§ 625.235(9)] Prior to admission, the child and custodian shall be informed in writing of their rights and child-caring facility responsibility including policy pertaining to a service [facility-relationships including policies pertaining to services] offered to the child.

(i) A child shall be informed upon admission of the right to file a grievance.

(j) [§ 625.235(9)] Upon admission, the child shall be oriented to life at the child-caring facility including rules and consequences for violation of the rules.

(k) A child under age six (6) may be placed only in temporary shelter care unless the child is a member of a sibling group being placed in residential child care.

(2) Intensive planning.

(a) The child-caring facility shall have written policy and procedure for the ITP [procedures for the individual treatment planning (ITP) process including:

1. Assessment;
2. Assignment;
3. [Of a treatment team: Designation of a case coordinator; and

(b) An initial assessment shall be completed by designated staff within twenty-four (24) five (5) hours of admission to include:
VOLUME 27, NUMBER 2—AUGUST 1, 2000

1. Identifying information;
2. Presenting problem;
3. History (developmental, social, emotional health, education); and
4. Current level of functioning including strength and weakness
   [strengths and weaknesses].

(c) An initial ITP shall be developed by designated staff and
implemented within twenty-four (24) [five (5)] hours of admission.

(3) Comprehensive assessment and treatment plan.

(a) A comprehensive emotional and behavioral assessment of a
   [each] child shall be completed by the treatment team and entered
   in the case record within twenty-one (21) days of admission including
   the following:
   1. A history of previous emotional, behavioral, and substance
      abuse problem [problems] and treatment;
   2. The child's current emotional, behavioral, and developmental
      functioning including strength and weakness [strengths and
      weaknesses];
   3. A psychiatric or psychological evaluation if recommended by
      the treatment team;
   4. [A psychological evaluation if recommended by the treatment
      team];
   5. Other functional evaluation [evaluations] of language, self-care,
      social affective, and visual-motor functioning if recommended by
      the treatment team;
   6. [Social assessment that [which] includes:
      a. Environment and home;
      b. Religion;
   c. Ethnic group;
   d. Developmental history;
   e. Family dynamics and composition; and
   f. Education; and
   g. Recommendation [Recommendations] for provision of treat-
      ment.

(b) A coordinated treatment team approach shall be utilized in the
development, implementation, and evaluation of a comprehensive ITP
[ITPs].

(c) A comprehensive ITP [Comprehensive-ITPs] shall be devel-
opled and implemented to improve child functioning per the individual
need [needs] of the child pursuant to KRS 199.640(5)(a)(4), and the
child's family if appropriate, and shall include at a minimum a:
1. Short-term and long-term goal and objective for permanence;
2. Time frame [goals and objectives];
3. Time frames [projected for completion of goal and objective];
4. Method [goals and objectives];
5. Method [goals and objectives] for accomplishing a goal and objective including utiliz-
ation of community provider;
6. Person [goals and objectives];
7. Person [goals and objectives] responsible for completion of a goal and objective
[goals and objectives]; and
8. Projected discharge date and placement plan [plans].

(d) The comprehensive ITP shall be developed within twenty-one
(21) days of admission.

1. A treatment team review [reviews] of the child's and family's
   progress toward meeting treatment goal [goals] shall occur at least
   monthly.
2. Every effort shall be made to involve the child and his family in the
   monthly treatment team review.
3. [Reviews:] Treatment team evaluation of the comprehensive ITP
   shall occur at least on a quarterly basis.
4. An additional assessment [Additional assessments] shall be
   completed upon the recommendation of the treatment team.
5. The [The] information shall be documented and maintained in the
   child's record.
6. The child shall be offered the opportunity to sign an ITP and
   ITP review [ITPs and ITP reviews] signifying understanding of the ITP.
7. If the child refuses to sign or is developmentally unable [too
   young] to understand the circumstance [circumstances], this shall be
   documented in the record.
8. The child and his family or custodian shall receive a copy of the
   ITP.

4. Treatment environment. The daily child-caring program shall
be planned in the following manner to create an atmosphere conducive
to treatment:

(a) The child-caring facility shall have written policy and procedure
   [policies and procedures] describing its daily routine, rules, activity
   [routines, rules, activities], and child and staff interaction [interactions].
(b) The daily child-caring program shall be:
    1. Planned to provide a framework for daily living; and
    2. [shall be] Reviewed and revised as the need of the individual
       child [needs of individual children] or living group change.
(c) The daily routine shall be written and available to a child [chil-
   dren].
(d) A rule [Rules] shall be clearly defined in language that a child
    [children] can understand.
(e) Staff shall interact with a child [children] in a warm, supportive,
    constructive, and confidential manner and treat the child [-Children
    shall be] treated with respect.
(f) Counseling and interviewing [with] a child and the child's family
    shall be conducted in a private area.
(g) A daily recreational activity [Daily-recreational-activities] shall
    be available to promote mastery of:
    1. Developmental tasks;
    2. Development of relationships; and
    3. Increase self-esteem in accordance with the child's ITP.
(h) The child-caring facility shall provide recreational equipment,
    maintained in usable and safe condition, to implement the recrea-
tional program. [Equipment necessary for the recreational program shall be
    maintained in usable and safe condition;]
(i) The child-caring facility shall make available a quality program
    for substance abuse prevention and treatment pursuant to KRS
    199.640(5)(a)(7).

Discharge and aftercare.

(a) The child-caring facility shall have written policy and procedure
   that describe the condition [procedures which describe the conditions]
   under which a child may be discharged including criteria for an un-
   planned or emergency discharge and a discharge not pursuant to
   (emergency discharges and discharges not in accordance with) the
   ITP.
(b) The approval of the program director shall be required for an
    unplanned or emergency discharge [all unplanned discharges].
(c) Discharge planning shall begin with the development of the
    ITP and subsequent ITP reviews the treatment team shall consider:
    1. Identification of placement;
    2. Community resource [resources] to provide support for youth; and
    3. Family services.
(d) When a child is leaving a facility as a planned discharge, a
    predischarge conference shall be held to ensure that the child and
    family are prepared for the successful transition into placement. The
    parent, guardian or custodian, the child, and the treatment team shall
    attend this conference.
(e) The child shall have at least one (1) preplacement visit prior to
    the planned discharge or the agency shall document efforts to arrange
    a visit.
(f) The child-caring facility [agency] shall prepare a written dis-
    charge summary within fourteen (14) [thirty (30)] days following the
date of discharge. A copy shall be provided to the custody holder. The
[This] summary shall include:
    1. Information related to progress toward completion of an ITP
       goal [ITP-goals];
    2. Barrier [Barriers] to treatment;
    3. Treatment method [methods] used in working with the child;
    4. Date of discharge;
    5. Reason for discharge;
    6. Name and telephone number; and
    7. Address of person or child-caring facility [agency] to whom the
       child was discharged.
(g) An aftercare service shall be provided to a child [Aftercare
    services shall be offered in cases where no other agency has respon-
sibility for the child's transition or adjustment to a new environment.
Upon discharge, the following need [needs] of the child shall be as-
essed and a referral made for needed aftercare service [for aftercare
services];
    1. Education;
    2. Medical;
    3. Vocational;
    4. Mental health services;
Library Department, the facility shall maintain a file to include:
1. [ finance’s Name, case number, date of birth; and
2. [ finance’s Date the case record was sent to the cabinet. [ Department for Community-Based Services:

Section 6. Youth Treatment Center. The following additional requirements shall apply to the facilities providing intensive treatment-oriented services:
1. Professional treatment services. If a child has an assessed need for professional psychological or psychiatric treatment services and other professional treatment services not provided by the facility, the facility shall secure these services either directly or by contract:
   a. After assessment and development of the ITP, the treatment team shall identify services to meet the needs of the child and his family. These services shall be provided by the facility or arranged through contract with another qualified agency or individual. These services may include the following:
      1. Individual counseling;
      2. Family counseling;
      3. Group counseling;
      4. Psychiatric counseling;
   b. The child shall receive individual counseling from a social worker or other treatment professional as determined by the treatment team;
   c. The child and his family shall be offered family counseling from a social worker or other treatment professional as determined by the treatment team;
   d. Group counseling may be offered by the facility but shall be conducted by a trained social worker or other treatment professional as determined by the treatment team. Counseling shall be conducted by the treatment team. Counseling shall be conducted by a trained social worker or other treatment professional as determined by the treatment team. Counseling shall be conducted by the treatment team. Counseling shall be conducted by a trained social worker or other treatment professional as determined by the treatment team.
2. Staffing requirements:
   a. If treatment or supervisory needs of the children require additional staff below the minimum staff/child ratios required in Section 8(5)(c) of this regulation, the treatment director shall provide additional direct-care staff to ensure the safety of residents, family staff, and visitors;
   b. There shall be a staff member designated as treatment director that is responsible for the supervision, evaluation, and monitoring of the treatment program. The treatment director shall provide treatment services for more than thirty (30) children shall employ a separate treatment director other than the executive director;
   c. Facilities providing treatment services for thirty (30) or less children may utilize the executive director in a dual role as treatment director, provided that at least fifty (50) percent of his duties are spent supervising the treatment program;
3. Seclusion rooms:
   a. Facilities shall have clearly defined written policies and procedures for placement of a child into a seclusion room;
   b. A seclusion room shall be only utilized if the child is in danger of harming self or others and efforts made to desensitize the child's behavior prior to placement into the seclusion room have been proven to be ineffective. The seclusion room shall not be utilized as punishment or for the convenience of staff;
   c. Approval from the program director or treatment staff designee shall be obtained prior to the individual placement of a child into a seclusion room;
   d. More than one (1) child shall not be placed into the seclusion room at one time;
   e. Objects that may be used for self-harm shall be removed from the child before he is placed into the seclusion room;
   f. A child's clothing except belts and shoes shall not be removed while placed into a seclusion room;
   g. A child shall not be placed into a seclusion room with a latch device for longer than one (1) hour within a twenty-four (24) hour period. The child may be released from isolation in less than one (1) hour provided his behavior is stabilized;
   h. A child requires second placement into a latched seclusion room, a treatment team meeting shall be conducted by the program director within twenty-four (24) hours of placement into the seclusion room to reassess the child's ITP;
   i. All staff shall have a copy of the policies and procedures for placement of a child into a seclusion room;

- 567 -
VOLUME 27, NUMBER 2 — AUGUST 1, 2000

(j) Staff shall have at a minimum sixteen (16) hours of annual training on techniques of de-escalation, safe physical restraint, and proper use of the seclusion room;
(k) If a child is in the seclusion room, a staff member shall visually observe the child every five (5) minutes;
(l) Staff shall document the following in the client record:
1. Interventions to desensitize the child’s behavior prior to placement into the seclusion room;
2. Date and time of placement into the seclusion room;
3. Date and time of removal from the seclusion room;
4. Reason for placement into the seclusion room;
5. Names of staff involved;
6. Program director’s or designee’s approval;
7. Five (5) minute visual observation by staff of the child’s placement; and
8. Intervention provided by treatment staff if the child leaves the seclusion room;
(m) A room used for a seclusion room shall:
1. Be well-ventilated, and maintained at a temperature consistent with the rest of the facility, and all areas observable if the door is closed;
2. The room shall be at least fifty-six (56) square feet in size;
3. The room shall be free from exposed objects that allow the child to do self-harm;
(n) Immediately upon the child’s exit from a seclusion room, treatment staff shall provide therapeutic intervention;
(o) If a latch is utilized to secure the door of the seclusion room, it shall not require the use of a key or combination;
(p) An incident report shall be completed on the child’s placement into the seclusion room, reviewed, and signed by the program director.

Section 9. Temporary Shelter. (1) Temporary shelter facilities providing child care or an emergency basis shall have an intake service on a twenty-four (24) hour per day, seven (7) days a week basis;
(2) If a temporary shelter facility is part of a larger organization providing other child caring or child-placing services, there shall be a designated person to act as director of the temporary shelter facility;
(3) The temporary shelter facility shall orient each child to the procedures regarding safety and evacuation. Upon admission, each child shall be screened by facility staff for signs of illness or communicable diseases. This does not supersede the requirements of Section 8 (1)(c) of this regulation that the child be examined by a licensed physician;
(4) The temporary shelter shall maintain daily recordings on the behavior and attitudes of the child;
(5) Temporary shelters shall be exempt from the requirements of Sections 8 (1)(m), 9(9)(h), (2), and 7(1); (2), (9), (4), and (5) of this regulation. If a child remains in a temporary shelter for more than thirty (30) days, the requirements of Section 7(1); (2), (9), (4), and (5) of this regulation shall apply and the facility shall document the reason the child remains;
(6) The facility shall have clearly defined written policies and procedures for admissions that identify the age, sex, and detailed description of the type of child served;
(7) The child shall be oriented to life at the facility including rules and consequences for violation of the rules;
(8) The facility shall comply with the recordkeeping provisions of KRS 199.640;
(9) Temporary shelter facilities shall employ nighttime staff who shall remain awake during the sleeping hours of the children.

Section 10. Group Homes. The following additional requirements apply to group home programs as defined in KRS 199.044.
(1) The group home shall present evidence of compliance with applicable local zoning ordinances prior to initial licensure from the Cabinet for Families and Children;
(2) The group home shall comply with KRS Chapter 424 by publishing a notice of intent to locate. The group home shall hold a public hearing if requested by citizens in the community or appropriate local governmental entity. Information obtained at the hearing shall be made available to the public and the Cabinet for Families and Children;
(3) The staff to child ratio shall be one (1) child caring staff member for each four (4) children or fraction thereof. An on-duty staff member who is away from the group home with a child may be included for the computation of this ratio;
(4) The group home child caring program shall utilize community resources; children shall be encouraged to participate in community activities;
(5) Group homes shall utilize the public school system or an accredited private school;

Section 11. Independent Living. The following additional requirements apply to facilities providing independent living programming;
(1) The child caring facility shall develop and implement written policies and procedures which address its independent living program including:
(a) A curriculum for teaching and practicing of independent living skills including employment, education, money management, interpersonal skills, use of community resources, and basic of nutrition and food preparation;
(b) A plan for aftercare services; and
(c) A plan for services from cooperating agencies;
(2) If an independent living program exists outside of the facility, the program director shall document that local fire and building codes are met. This standard shall supersede the standard in Section 5(2) of this regulation;
(3) A staff person shall be responsible for and have daily direct contact with each child in the independent living program;
(4) The facility shall maintain documentation for each youth concerning:
(a) An assessment of the youth’s readiness to live independently;
(b) Progress each youth has made in independent living skills training;
(c) Assistance to the youth in finding and keeping in touch with family if possible;
(d) Staff observation of the living arrangements; and
(e) Progress in educational program;
(5) The independent living programs shall be exempt from the following provisions of this regulation:
(a) Section 3(3)(e);
(b) Section 3(5)(b), (c), (d), (f);
(c) Section 3(9)(e), (b), (c), (d), (f), (g), (h), (i);
(d) Section 6(7)(b), (c), (d), (f); and
(e) Section 7(9)(e), (b), (c), (d), (e).

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
HIREN DESAI, Attorney
APPROVED BY AGENCY: June 23, 2000
FILED WITH LRC: June 29, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director
(1) Type and number of entities affected: The affected entities are 112 child-caring facilities.
(2) Direct and indirect costs or savings on those affected: None
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written 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 comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments received.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (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 to the agency:
1. First year: None
2. Continuing cost or savings: None
3. Additional factors increasing or decreasing cost: 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: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received.
(b) Kentucky: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the public hearing on this ordinary administrative regulation.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect.
(c) If detrimental effect would result, explain detrimental effect: N/A
(d) Identify any statutes, administrative regulations or government policies which may be in conflict, overlapping, or duplication: None
(9) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(10) Any additional information or comments: None
(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through regulatory and statutory requirements.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended After Hearing)

922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.

RELATES TO: KRS 199.011(2), (3), (4), (6), (7), 199.640, 199.641(1)(b), 199.670, 600.020(5), (7), 610.110(6)
STATUTORY AUTHORITY: KRS 1945.050(1), 199.640(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.640(3)
authorizes the Cabinet for Families and Children to promulgate administrative regulations relating to licensure for child-caring facilities and child-placing agencies.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Families and Children.
(2) "Child" is defined at KRS 199.011(4), 600.020(5), and 610.110(6).
(3) "Child-caring facility" is defined at KRS 199.011(6) and 199.641(1)(b).
(4) "Child-placing agency" is defined pursuant to KRS 199.011(7).
(5) "Division" means the Division of Licensing and Regulation, within the Office of the Inspector General, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky.
(6) "Licensure" means an "individual, partnership, corporation or other entity authorized to operate a child-caring facility or child-placing agency, including board of directors and a person authorized to make application.

Section 2. Initial Application. (1) An applicant for a license shall submit to the division a:
(a) Completed Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, Form L&R 136;
(b) Licensure fee of: 1. $100 for a child-placing agency; or 2. $100 for a child-caring facility;
(c) Copy of the Articles of Incorporation on file with the Secretary of State if the applicant is a corporation;
(d) Mission statement or purpose, objective, scope of service provided, and intake policy specifying the type of child to be accepted for care;
(e) Copy of the constitution and bylaws;
(f) List of officers, board members, and advisory board members, if any, including the address and profession;
(g) Name and title of each officer and the term of office; and
(h) List of staff including position or title and qualifications.
(2) A license issued by the division shall be:
(a) For a specific physical location within the state;
(b) For operation by a specific licensee;
(c) Nontransferable;
(d) Approved and documented by the State Fire Marshal before a licensure survey is conducted; and
(e) Awarded when an on-site inspection, pursuant to Section 6 of this administrative regulation, is completed by the division and it is determined the applicant qualifies for licensure pursuant to 922 KAR 1:300 and 922 KAR 1:310, and submitted an acceptable plan of correction of a violation pursuant to Section 4 of this administrative regulation.

Section 3. Renewal Licensure. The child-caring facility and the child-placing agency shall be relicensed annually from the date of issuance of the original license. Any change in the following shall be provided to the Division:
(1) The applicant shall submit a:
(a) Completed Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, Form L&R 136;
(b) A fee of fifty ($50) dollars for a child-caring facility; and
(c) A fee of fifty ($50) dollars for a child-placing agency.
(2) As part of the annual inspection, the following shall be provided:
(a) A list of officers, board members, and advisory board members, if any, including address and profession;
(b) The name and title of each officer and term of office; and
(c) A list of staff that includes position or title and qualifications.
(3) The child-caring facility and child-placing agency shall comply with its mission statement, program narrative, and applicable federal and state administrative regulations in regard to the program operations.
(4) The child-caring facility and child-placing agency shall have an annual financial audit completed by an independent accounting firm or a certified public accountant.
(5) Notification of a change in the following shall be made to the division in advance to allow for approval from the division and the State Fire Marshal when applicable, before implementation:
(a) Ownership or sponsorship of the facility;
(b) Location approval and documented by the State Fire Marshal; or
(c) Service type provision pursuant to 922 KAR 1:300 and 922 KAR 1:310;
(d) Increase in capacity approval and documented by the State Fire Marshal; and
(e) The addition of a new building or converting of administrative space to living space approval and documented by the State Fire Marshal.
(6) A renewal license shall be issued by the division when the division determines the applicant qualified for renewal licensure pursuant to 922 KAR 1:300 or 922 KAR 1:310.
(7) The child-caring facility or child-placing agency shall post its license in a place visible to the public.

Section 4. Corrective Plans. (1) The division shall perform an on-site inspection, pursuant to KRS 199.640(3) and (5). A regulatory violation of the standards identified in 922 KAR 1:300 and 922 KAR 1:310 during inspection shall be reported to the child-caring facility or the child-placing agency in a written statement of deficiency. An applicant or licensee may request the opportunity to internally dispute a deficiency pursuant to KRS 199.670.
(2) The child-caring facility or child-placing agency shall submit, within ten (10) days of receipt of the statement of deficiency, a written plan for the elimination or correction of a violation. The plan shall detail:
(a) Specific action undertaken to correct a violation;
(b) The date action was initiated; and
(c) Action utilized to assure ongoing compliance.
(3) The division shall review the plan and notify the child-caring facility or the child-placing agency, in writing, of the decision to:
(a) Accept the plan;
(b) Not accept the plan; or
(c) Deny, suspend, or revoke the license, pursuant to Section 7 of this administrative regulation.
(4) A notice of unacceptability shall state the specific reasons the plan is unacceptable.
(5) A child-caring facility or a child-placing agency notified of unacceptability of its plan shall, within ten (10) days of notification:
(a) Submit an amended plan; or
(b) Have its license revoked or denied.
(6) If an application or license has been denied, suspended, or revoked, the division shall notify the applicant or licensee, in writing, of the right to request an informal dispute resolution meeting pursuant to KRS 199.670(2).
(7) A hearing shall be issued pursuant to KRS 199.640(4), if the child-caring facility or the child-placing agency has met the requirements contained in this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310.
(8) A license shall not be sold or transferred.
(9) Change of ownership.
(a) A prospective new owner shall submit:
1. A Licensing and Regulation Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, Form L&R 136;
2. A fee as specified in Section 2(1)(b) of this administrative regulation; and
3. If the child-caring facility increases capacity, documentation of approval by the Office of the State Fire Marshal;
(b) The division shall perform an on-site inspection, pursuant to KRS 199.640(5) and (6);
(c) The effective date of a license granted on an application for change of ownership shall be:
1. For a child-caring facility or a child-placing agency that meets requirements of this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310, the date the child-caring facility or the child-placing agency is acquired by the new owner;
2. For a child-caring facility or a child-placing agency that does not meet requirements, the date that compliance with this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310 is achieved; or
3. For a child-caring facility that increases capacity, not before the approval date issued by the State Fire Marshal.
(10) Changes to the child-caring facility or the child-placing agency.
(a) A licensee shall notify the division, in writing, if there is a change to the child-caring facility or child-placing agency pursuant to Section 3(5) of this administrative regulation.
(b) The notification shall be signed by each owner listed on the license application.
(c) A fee shall not be charged.
(d) Notification shall be submitted to the division.
(11) The license shall be posted in a conspicuous place in the child-caring facility or child-placing agency.
(12) A child-caring facility or a child-placing agency shall not begin operation without a license to operate from the division pursuant to 922 KAR 1:300 or 922 KAR 1:310.
(13) A child-placing agency or a child-caring facility operating without a license shall be subject to legal action.

Section 7. Basis for Denial, Suspension or Revocation. (1) The division shall deny an application or suspend or revoke a license if the applicant or the licensee:
(a) Fails to meet the requirements of this administrative regulation or those of 922 KAR 1:300 or 922 KAR 1:310; or
(b) Has been convicted:
1. Of a sexual offense designated in KRS 510.040 to 510.140, 510.150, 529.020 to 529.050, 530.020, 530.064, or 531.310 to 531.370;
2. Of a crime of abuse, neglect or exploitation of a child, pursuant to KRS 508.100, 508.110, or 508.120; or
3. As a violent offender, pursuant to KRS 17.165(2);
(c) A licensee of a child-caring facility or a child-placing agency shall not have an allegation of abuse or neglect 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; and
(d) Be listed on the Nurse's Aid Abuse Registry by the Kentucky Board of Nursing.
(2) Effect of denial or revocation.
(a) The division shall not accept an application to operate a child-caring facility or a child-placing agency from an entity that was previously denied, suspended or revoked pursuant to subsection (1)(b) of this section;
(b) Within the previous five (5) years, voluntarily forfeited a license after the cabinet has initiated denial or revocation action.

Section 8. Right of Appeal. (1) If an application or license has been denied, suspended, or revoked, the division shall notify the applicant or licensee, in writing, of the right to request an informal dispute resolution meeting pursuant to KRS 199.670(2) or to request a hearing pursuant to KRS Chapter 13B.
(2) If, within fifteen (15) days after receiving notice of the division's action, the applicant or licensee requests a hearing, the division shall:
(a) Appoint a hearing officer;
(b) Proceed pursuant to KRS 138.050.
(3) The cabinet may take emergency action pursuant to KRS 13B.125 and 199.670(3).

(2) This material may be inspected, copied, or obtained at the Inspector General's Office, 275 East Main Street, Frankfort, Kentucky.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
HIREN DESAI, Attorney
APPROVED BY AGENCY: June 23, 2000
FILED WITH LRC: June 23, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Cathy G. Mobley
(1) Type and number of entities affected: The affected entities are 112 child-caring facilities and 60 child-placing agencies.
(2) Direct and indirect costs or savings on those affected: A savings of $3,500 through the reduction of licensure fees.
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written 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 comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments received.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (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 to the agency:
VOLUME 27, NUMBER 2 — AUGUST 1, 2000

1. First year: None
2. Continuing cost or savings: None
3. Additional factors increasing or decreasing cost: 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: No public hearing was requested as the result of the Notice of Intent being published and no written comments were received.
(b) Kentucky: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the public hearing on this ordinary administrative regulation.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect.
(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 regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(10) Any additional information or comments: None
(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through regulatory and statutory requirements.

CABINET FOR FAMILIES AND CHILDREN
Department of Community Based Services
Division of Policy Development
(Amended After Hearing)

922 KAR 1:310. Standards for child-placing agencies.

RELATES TO: KRS 61.978, 158, 135(1)(c), 199.011, 199.430(3), [199.476], 199.492, 199.493, 199.510, 199.520, 199.522, 199.590, 199.640, 199.660, 199.670, 216.300, 2718.08, 600.020, 615.010, 615.030 to 615.040, 620.020, 625.040, 625.043
STATUTORY AUTHORITY: KRS 194B.050(1) [194D.050], 199.640(3), (5)(a), 615.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) provides that the Secretary of the Cabinet for Families and Children shall, by administrative regulation, develop policies and operate programs concerned with the citizens of the Commonwealth. KRS 199.640 requires that the Cabinet for Families and Children issue administrative regulations relating to standards of care and service for child-placing agencies. [This administrative regulation establishes the new provision of KRS 199.470 relating to private adoptions, by permitting home investigations to be conducted by private-adoptive agencies; as well as, the Cabinet for Families and Children.

Section 1. Definitions. (1) "Adoption" means the legal process by which a child becomes the child of a person or persons other than biological parents.
(2) ["Advisory board" means a group of citizens approved by the board of directors who lends advice, counsel, and support to an agency.]
(3) "Aftercare" means services provided to the child after discharge from a child-placing agency.
(3) "Approved adoptive home" means a home that has had an adoptive home study completed and the adoptive parent has completed required preparation training.
(4) "Approved foster home" means a home that has had a foster home study completed and the foster parent has completed required preparation training.
(5) "Behavioral health professional" means:
(a) 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 practice of an official duty;
(b) A psychologist licensed pursuant to KRS 319.050;
(c) A psychologist with an autonomous functioning certified pursuant to KRS 319.056;
(d) A social worker licensed pursuant to KRS 335.100;
(e) A person with a master's degree in social work from an accredited college or university who is certified and functioning in accordance with KRS 335.080 (employed by the Department for Community-Based Services as a social worker and who is exempt from licensure pursuant to KRS 335.019(4));
(f) An advanced registered nurse practitioner licensed pursuant to KRS 314.042;
(g) A marriage and family therapist licensed pursuant to KRS 335.300;
(h) A professional counselor certified pursuant to KRS 33.500;
(i) A professional art therapist licensed pursuant to KRS 309.130;
(j) An alcohol and drug counselor certified pursuant to KRS 309.080;
(k) A psychological associate certified pursuant to KRS 319.064.
(l) "Board of directors" is defined at KRS 273.16172.
(m) "Cabinet" means the Cabinet for Families and Children.
(n) "Child-placing agency" is defined at KRS 199.011(7).
(1) "Facility" means:
(4) "Board of directors" means that group which is by law or chart of the responsibilities for governing the agency.
(6) "Community resource [resources]" means a service or activity available in the community that shall supplement those provided by the child-placing agency in the care and treatment of a child (children).
(9) "Division" means the Division of Licensing and Regulation, 27 East Main Street, Frankfort, Kentucky 40621.
(10) ["Executive director" means the person employed by the board of directors to be responsible for the overall administration and management of a child-placing [en] agency.
(11) "Home study" means an assessment done on a prospective adoptive or foster home by a social services professional.
(13) "Independent living program" means a planned program designed to teach youth life skills that shall enable the youth to become self-sufficient.
(14) "Individual treatment plan (ITP)" means a plan of action developed and implemented to address the needs of a [an] individual child.
(15) "Licensed health care professional" is defined at KRS 216.330.
(16) "Permanence" is defined at KRS 620.02(7).
(17) "Placement" means a foster or adoptive home that has been approved by completing the application process, home study and required preparation training.
(18) ["Preschool child" means a child under six (6) years of age.
(19) "Infant" means a child under two (2) years of age.
(20) "Respite care" means a temporary interlude of care which gives relief to the person who normally cares for a child or providing for an adjustment period for the child. This care is provided by a person who has received the preparation training required for placement of a child into a foster or adoptive home.
(21) ["Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and his environment.
(22) "Social services professional" means the person responsible for social work, counseling or planning and coordinating services to a child and who has at least a bachelor's degree in social work or the
human services field.

(23) "Therapeutic foster care" is defined pursuant to KRS 168.155(1)(o).

Section 2. Administration and Operation. (1) Licensing procedures. Licensing procedures for a child-placing agency shall be administered pursuant to 922 KAR 1:305.

(a) Initial licensure:
1. If applying for an initial license, the agency shall provide the following:
   a. A complete application as determined by the cabinet;
   b. A license fee of $155;
   c. A copy of the articles of incorporation;
   d. A mission statement of purposes, objectives, scope of services provided, and intake policy specifying kinds of children to be accepted for care;
   e. A copy of the constitution and bylaws;
   f. A list of officers, board members, and advisory board members; if any, including addresses and professions;
   g. Names and titles of officers and terms of office; and
   h. A list of all staff including positions or title and qualifications; and
2. Applications for child-placing facility licenses shall be in compliance with the applicable regulations or shall have submitted an acceptable plan for correction of violations relating to the particular child-placing facility. Compliance with licensure regulations shall be ascertained through on-site inspections of the child-placing facility. Representatives of the division shall have access to the child-placing facility at any time. Regulatory violations identified during inspections shall be transmitted in writing to the child-placing facility by the division. The child-placing agency shall submit a written plan for the elimination or correction of the regulatory violations to the inspecting agency within ten (10) days. The plan shall specify the dates by which each of the violations shall be corrected. Following a review of the plan, the division shall notify the child-placing facility in writing of the acceptability of the plan. If a portion or all of the plan is unacceptable, the division shall specify the reasons for the unacceptability. In these cases, the child-placing facility shall modify or amend the plan and resubmit it to the division within ten (10) days.
3. A license shall be issued by the cabinet when the agency has been surveyed by the cabinet and it is determined that the agency qualifies for licensure.

(b) Renewal licensure. Agencies shall be relicensed annually from the date of issuance of the original license. To be eligible for relicensure, the agency shall:
1. Submit a renewal application;
2. Submit a relicensure fee of eighty-five (85) dollars; and
3. Comply with the applicable portions of this administrative regulation.

(c) Every child-caring agency shall provide the following information as part of the annual inspection:
1. A list of officers, board members, and advisory board members; if any, including addresses and professions;
2. Names and titles of officers and terms of office; and
3. A list of all staff including positions or title and qualifications;
4. The agency shall comply with its mission statement, child-caring program, and, all applicable federal and state regulations in regard to child-caring program operations; and
5. The agency shall have an annual audit completed by an independent accounting firm or a certified public accountant.

(f) All applications for license shall, as a condition precedent to licensure or relicensure, be in compliance with the applicable regulations relating to the particular child-placing facility. Compliance with licensure regulations shall be ascertained through on-site inspections of the child-placing facility. The inspection procedure for relicensure shall be the same as set forth in paragraph (e) of this subsection.

(g) The license shall specify the types of care and services the agency is authorized to provide based upon the application and inspection.

(h) The agency shall provide the types of care and services for which they are licensed.
1. An application shall be issued for a specific physical location and for operation by a sponsoring organization.
2. Licenses shall not be transferable.
3. Notification of changes in the following shall be made to the division in advance to allow for approval before implementation:
   a. Ownership or sponsorship;
   b. Location;
   c. Capacity;
   d. Services;
(1) The agency shall post its license in a place visible to the public;
(2) Board of directors.
4. The child-placing agency shall have a board of directors pursuant to KRS Chapter 271B.6.

(b) The board of directors shall consist of a minimum of seven (7) members.
(c) [Consisting of a minimum of seven (!) members, the majority of whom shall be residents of Kentucky.]
(b) The board of directors shall meet at least quarterly [in every calendar year]. Minutes of the meeting [these meetings] shall be taken and kept in written form.
(c) One (1) meeting of the board of directors shall be held at each agency location in every calendar year. If a board of directors has responsibility for multiple agency locations, a board committee may be appointed:
1. To meet at least once a year at each agency location; and
2. Shall submit a written report of this meeting to the full board.
(d) The board of directors shall employ an executive director. The division shall be notified in writing of a change in the facility's executive director in writing within seven (7) days.
(d) [If] The board of directors shall be responsible for and have the authority to ensure the continuing compliance with the requirements of this administrative regulation and all [relevant federal, state or local laws or regulations.]

(f) The board of directors shall conduct and approve an annual evaluation of the performance of the executive director.
(g) The board of directors shall approve a written annual budget for the agency which ensures funding to meet all operating requirements.

(h) The board of directors shall consult with the executive director to approve and annually review all written policies of the agency.
(e) The board of directors shall obtain a criminal records check of a prior convictions or plea [prior convictions or pleas] guilty of the executive director prior to employment.
(f) The board of directors shall approve a mission statement delineating the:
   1. Purpose;
   2. Objectives; [1]
   3. The purposes;
   2. Objectives;[2]
   3. Scope of services to be provided; and
   4. Intake policy specifying the type of child [kinds of children] to be accepted for care.

(3) Executive director.
(a) The duty [duties] of the executive director shall be determined by the board of directors.
(b) The executive director shall be responsible for the child-placing agency and its affiliates pursuant to the child-placing facility's written policy.
(c) The executive director shall oversee and report to the board on a quarterly basis:
1. An evaluation of program services and address measurable goals, staff training, and incident reports; and
2. The criteria and process of this evaluation shall be approved by the board.
(d) [And shall include the following responsibilities:
1. Select, employ, and terminate staff;
2. Develop and implement agency policies approved by the board of directors;
3. Provide professional help to the board of directors in:
   a. Carrying out their responsibilities;
   b. Interpreting the needs of the children and families served; and
   c. Assisting in periodic evaluation of the agency's services;
   d. Supervise the preparation of annual budget for board consideration;]
3. Keep the board informed of financial needs;
4. Provide financial statements to the board of directors on a quarterly basis;
7. Operate within the established budget;
6. Attend board meetings;
9. Ensure that orientation is provided for new employees and continual training for staff; and
10. Delegate appropriate duties to other staff.
(b) If the executive director is not available on the premises, a designated staff person shall be responsible for the day-to-day operation of the child-placing (operations-of-the-child-caring) program.

(4) Staff qualifications.
(a) A person [Person] hired after the effective date of this administrative regulation as executive director shall possess the following qualifications:

1. An executive director shall possess:
   a. A master's degree in any of the following human services fields:
      i. Social work;
      ii. Sociology;
      iii. Psychology;
      iv. Guidance and counseling;
      v. Education;
      vi. Religion;
      vii. Christian education;
      viii. Divinity;
      ix. Business administration;
      x. Pastoral counseling;
      xi. Criminal justice;
      xii. Public administration;
      xiii. Child-care administration;
     xiv. Nursing;
   b. Other human service fields [field] related to working with a family or child, and
   c. Families and children; and
   d. Two (2) years work experience in management of a human services program; or
2. A bachelor's degree with a major in the areas pursuant to subparagraph 1 of this paragraph, listed above, public administration, or child-care administration and four (4) years work experience in a human services program (human services programs).
(b) A person other than the executive director employed in positions requiring supervisor, supervising, evaluating, or monitoring social work or other professional staff shall possess:
1. A master's degree in the human services area including the areas of social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, public administration, or child-care administration; and
2. At least two (2) years work experience in the human services field.
(c) All licensed child-placing agency [agencies] shall have one (1) member of the social work staff designated as program [placement] director who shall hold:
1. A master's degree in social work or in the areas pursuant to paragraph (a)(1) of this subsection [related-field]; or
2. A bachelor's degree in social work or a bachelor's degree in the areas pursuant to paragraph (a)(1) of this subsection [related-field] and a minimum of two (2) years professional [child-placing] experience in working with a child or family.
(d) Children and families including foster care or adoptive placements.
(e) A child-placing agency contracting for [using] the service of a social worker or social services professional not on the staff of the child-placing agency shall document that the social worker or social services professional meets the qualifications pursuant to Section 1(22) of this administrative regulation [meets the qualifications as required in paragraph (f) of this subsection]. An agreement for this provision of service shall be on file at the child-placing agency and shall specify the qualifications of the social worker or social services professional.
(f) The program director shall supervise social services staff.
(g) In a therapeutic foster care program, supervision of a foster parent shall be carried out by a person meeting the qualifications of a behavioral health professional pursuant to Section 1(5) of this administrative regulation.
(h) Social workers shall be supervised by the placement director.
(i) Employees responsible for social work, counseling, or planning and coordinating services to children shall have at least a bachelor's degree in the human services field.
(j) Social services staff shall not carry a caseload of more than twenty (20) children.

(5) Personnel policy.
(a) A child-placing agency shall have written personnel policy and procedures.
(b) An employee [employee] shall:
   a. Be at least eighteen (18) years of age.
   b. Be well qualified in the areas of work for which he is employed.
   c. Have no criminal record.
   d. Be free from the use of street drugs.
   e. Be free from any mental condition that would interfere with the safe performance of his work.
   f. Be free from any physical condition that would interfere with the safe performance of his work.
   g. Be free from any physical condition that would interfere with the safe performance of his work.
   h. Be free from any physical condition that would interfere with the safe performance of his work.
   i. Be free from any physical condition that would interfere with the safe performance of his work.
   j. Be free from any physical condition that would interfere with the safe performance of his work.

(c) An individual shall not be employed if a criminal record check reveals a prior criminal conviction or plea of guilty to charges:
1. Pursuant to KRS Chapter 510 or a Class A felony;
2. Of a sexual offense pursuant to KRS 510.040 to 510.140, 510.150, 529.020 to 529.030, 530.020, 530.030, 531.000 to 531.370;
3. Of a crime of abuse, neglect or exploitation of a child pursuant to KRS 508.100, 508.110, or 508.120, or a crime resulting from a criminal charge filed pursuant to KRS 620.120; or
4. As a violent offender, pursuant to KRS 17.165(2).

(d) An individual shall not be employed if he:
1. Has had an allegation of abuse, neglect or exploitation of a child pursuant to KRS 600.020(1), substantiated by the cabinet pursuant to K22 KAR 1:330 and, if appealed, K22 KAR 1:320; or
2. Is listed on the Nurse's Aid Abuse Registry by the Inspector General's Office.

(e) There shall be a written job description which shall be reviewed and revised for each position which:
1. Clearly describes the duties of the position and the skills necessary to fill the position; and
2. Identifies the position's immediate supervisor.

(f) Personnel upon employment shall receive written agency policies and procedures to include the following:
1. Salary plan;
2. Leave provisions;
3. Working conditions;
4. Fringe benefits;
5. Employment and termination;
6. Job descriptions;
7. Staff evaluation;
8. Provisions for staff development;
9. Employee grievance;
10. Disciplinary action; and

(g) Personnel orientation. Personnel within one (1) month of initial employment shall receive an orientation to agency policies and procedures.

(h) A current personnel record [Current-employee records] shall be maintained for an employee that includes such employee which include the following:
1. Name, address, Social Security number, date of employment, and date of birth;
2. Evidence of current registration, certification, or licensure;
3. Record [Records] of participation of staff development;
4. Record [Records] of performance evaluation;
5. Criminal records check pursuant to paragraph (c) of this subsection;
6. Record of a check with the cabinet for a substantiated report of child abuse, neglect, and exploitation pursuant to paragraph (d) of this subsection;
7. Record of a physical exam [Records of physical exams] related to employment as specified in the child-placing agency;
8. [7.] Personnel action [actions];
9. [6.] Application for employment and resume or contract; and
10. [9.] Evidence of personnel orientation.

(i) If a criminal records check reveals a prior criminal conviction or plea of guilty to charges pursuant to KRS Chapter 510 or a Class A felony, the applicant shall not be employed.

(j) The child-placing agency shall have an ongoing staff development program [for the administrative, professional, volunteer, and support personnel].

1. Records of attendance at workshops, conferences, and academic courses related to work responsibilities shall be kept on employees.
2. The staff development program shall be under the supervision of a designated staff member.
VOLUME 27, NUMBER 2 — AUGUST 1, 2000

(a) (th) An employee under indictment or legally charged with felonious conduct shall be immediately removed from contact with a child [children] until the person is cleared of the charge and, if the charge resulted from an allegation of child abuse, neglect or exploitation, a records search of the cabinet shall reveal an unsubstantiated investigation before the employee shall be allowed to work with a child.

(b) A volunteer who performs a similar function [(f) Volunteers who perform similar functions] as paid staff shall meet the same requirements and qualifications.

(c) Agency policies: There shall be written administrative policies which the agency follows covering all aspects of operation including:

1. Administration;
2. Personnel;
3. Fiscal management;
4. Case records;
5. Child-placing program;
6. Internal review and evaluation;
7. Transportation of children;
8. A description of organization structure, staffing, and allocation of responsibility and accountability; and
9. A child-placing program narrative describing in detail:
   a. The services offered;
   b. Methods and protocols for service delivery;
   c. Qualifications of personnel involved in the delivery of the services;
   d. Goals of the services;
   e. An internal review and evaluation program: [These shall be approved by the board of directors.];
   f. The child-placing program content in relation to the state's role and purpose of the agency;
   g. Child-placing program effectiveness focused on stated and measurable goals;
   h. Roles of the board of directors and management staff;
   i. Personnel policies;
   j. Staffing patterns and job responsibilities;
   k. Staff effectiveness;
   l. Staff turnover, causes, and effects;
   m. Staff training program;
   n. Budgeting and fiscal management;
   o. Placements; planned and unplanned discharge [discharges]; and
   p. Length of stay of a child (children) in care;
2. [H] Content of the child-placing program: outcome-based treatment plans related to the needs of the child and family: to include:
   a. Child safety;
   b. Improved child functioning;
   c. Improved family functioning; and
   d. Continuity and permanence of the child [based upon a random review of case work plans]; and
2. [H2] The service continuum to include:
   a. Initiation of discharge planning at admission; and
   b. Provision of aftercare services; from intake through aftercare; and
   c. A copy of an evaluation; or documentation of accreditation in good standing pursuant to paragraph (e) of this subsection shall be:
      1. Made available on file at the child-placing agency; and
      2. Made available to a [each] evaluation shall be kept on file at the agency and a copy shall be given to each member of the board of directors.;
   d. Accreditation by the Council on Accreditation of Services for Families and Children [sponsored by the Child Welfare League of America] or the Joint Commission on Accreditation of Healthcare Organizations; shall substitute for the quarterly (three (3) year) evaluation.

(f) The child-placing agency shall ensure that the rights of the child and his family [children and their families], including that of confidentiality, are protected in accordance with the [stages of] evaluation. [Services shall not be denied or restricted to any client-based participation in the evaluation process.]

Section 3. Interstate Placement [Placements]. (1) Prior to accepting a child from another state or prior to placing a child outside Kentucky, the child-placing agency shall comply with:

[a] [all applicable provisions of KRS 615.030 to 615.040, Interstate Compact on Placement of Children; and
(b) KRS 615.010, Interstate Compact on Juveniles.]

(2) If a child committed to the cabinet makes a brief visit out of state, not accompanied by child-placing agency personnel, the child-placing agency shall obtain prior consent from the social services worker in the Department for Community Based Services who has case responsibility.

(3) If an emergency placement of a child into a licensed child-placing agency is made, compliance with KRS 615.030 to 615.040 shall be the responsibility of the placement source [placing agency].


1. Maintain the orientation and preparation [training] curriculum on file;
2. Provide a minimum of four (4) hours of [provide] orientation and preparation [training] to a prospective adoptive parent [prospective foster and adoptive parents] to include the following:

[a] Child-placing [H] agency program description with mission statement, information about the rights and responsibilities of the adoptive parent [parents], and background information about an adopted child and his family;
(b) Example of an actual experience from a parent who has adopted a child;
(c) Information regarding:
   1. Foster or adoptive children;
   2. Examples of actual experiences from parents who have fostered and adopted special needs children to include:
   (e) Example of the stages of grief;
   2. (th) Identification of the behavior [behaviors] linked to each stage;
   3. The long-term effect [c] Consideration of the long-term effects of separation and loss on a child;
4. Attachment; and
5. [children];
   [a] Examination of Family functioning, values, and expectation of the adoptive parent;
   [b] Expectations of the adoptive or foster family; identification of a change that [changes which] may occur in the family unit when a placement occurs, to include:
   1. Family adjustment and disruption;
   2. Identity issues; and
   3. Discipline; and
   [a] Suicide or other resuscitation, [with placement of a child]; and discipline issues;
   (d) Examination of how placement may affect family;
   (e) Functioning;
   (b) Adjustment problems;
   (c) Identity issues; and
   (d) Disruptions;
   (e) Specific requirements and responsibilities of foster and adoptive families;

Section 5. Orientation and Preparation [Training] of the Adoptive Home for a Child Older than One (1) Year. A child-placing agency shall:

1. Maintain the orientation and preparation [training] curriculum on file;
2. Provide a minimum of twenty-four (24) hours of orientation an preparation [training] to a prospective adoptive parent to include the following:

[a] Example of an actual experience from a parent who has adopted a child;
(h) Challenging behavior characteristic of adoptive older children;
(i) Referral resources for developmental delays;
(j) Transition issues with focus on stages of grief, and a honey-
moon period;
(k) Loss and the long-term effect on a child;
(l) Attachment issues;
(m) Medical issues including referral resources;
(n) Family functioning, family values, and expectations of the
adoptive parent; and
(o) Identification of change that may occur in the family unit upon
the placement of a child to include:
- Family adjustment and disruption;
- Identity issues; and
- Disciplines.

Section 6. Orientation and Preparation (Training) of a Foster
Home. A child-placing agency shall:
(1) Maintain the orientation and preparation [training] curriculum
on file;
(2) Provide a minimum of twenty-four (24) hours of orientation and
preparation [training] to a prospective foster parent to include the
following:
- Child-placing agency program description with mission state-
ment, information about the rights and responsibilities of the foster
parent and background information about a foster child and his family;
and
- Example of an actual experience a foster family who has fos-
tered a child;
(c) Information regarding:
- The stages of grief;
- Identification of the behavior linked to each stage;
- The legal and long-term effect of separation and loss on a child;
- Permanency planning for a child;
- The importance of attachment on the growth and development
and how a child may maintain or develop a healthy attachment;
- Family functioning, values, and expectations of the foster family;
- Identification of change that may occur in the family unit when
a placement occurs, to include:
- Family adjustment and disruption;
- Identity issues; and
- Disciplines;
- Specific requirements and responsibilities of a foster family;
- Maintain an ongoing foster parent preparation [training] pro-
gram that:
- Provides a minimum of six (6) hours ongoing foster parent
preparation [training] annually; and
- Maintain a record of preparation [training].

Section 7. Evaluation of a Potential Foster Home. (1) The child-
placing agency social service staff shall perform the function of
recruitment.
(2) The foster home evaluation shall be completed and the home
approved prior to the placement of a child and include documentation
of the following information:
(a) A [Evaluation of Potential Foster Homes. (1) The functions
of recruitment and response to inquiries by prospective foster parents
shall be performed by the child-placing agency social work staff. An
application shall not be given without an interview to determine if
the application process may proceed.
(b) The agency shall be responsible for approving the home as
acceptable for foster care. The home shall be considered as a
series of planned interviews and home visits by the social
worker. Children shall be placed only in approved foster homes.
(c) The agency shall keep a written record of the findings of
this study and the evidence on which these findings are based:
(d) The foster home study shall record personal interview [interviews]
both joint and separate with each member [all members] of the
household;
(e) An assessment of the acceptance of each household member
toward the placement of a foster child into the home;
(f) Documentation of the observation of the [ ]
(g) The foster home study shall include the following information:
- Attitudes of household members toward placement of a foster
child into the home;
- Observations of foster family functioning including interper-
sonal relationships and patterns of interaction;
- The foster parents' ability to accept the child's relationship
with the child's family of origin;
- [natural parents];
- Information regarding the foster family's support system;
- The family's ability to meet financial obligations of the child
based on agency criteria;
- A signed statement [nonmaternal relationships];
- Certification by a licensed physician or licensed health profes-
sional, current within the last twelve (12) months, regarding the fam-
ily's physical ability to provide necessary care for the child;
- Standards of household safety, housekeeping, and clean-
liness are acceptable;
- [ ] Water supply and sanitation are in compliance with [all
state and local health requirements];
- [ ] Suitability of in- and out-of-door play space according to
the age and need [needs] of the child;
- [ ] Accessibility of the home to the community resources;
- [ ] A criminal record check, including an out-of-state check if
the applicant resided out of state within the last ten (10) years and
child and adult abuse registry and nurse's aide registry check on each
child and adult abuse registry check on any [adult residents in the
household];
- [ ] Verification of current marriage and any prior divorce or
death of spouse [all-marriages and divorces] of the prospective foster
parent [parents]; and
- [ ] A minimum of three (3) written personal references indi-
cating the suitability of the home and of the potential foster parent.
(3) The child-placing agency shall keep a written record of the
findings of this study and the evidence on which these findings are
based.
(4) [ ] References:
- [ ] An agency shall not have more than two (2) children under two
years of age placed in the same foster home at the same time
except:
- [ ] Sibling groups who may remain together;
- [ ] Temporary shelters that are limited to serving children under
one (1) year of age;
- [ ] Homes where three (3) or more adults reside and the maxi-
mum number of infants shall not exceed three (3) at one (1) time;
(5) A foster home shall be selected for a particular child based
upon the individual need [needs] of the child.
(6) The worker shall explain the terms of each placement and the
foster parents shall certify in writing that supervision from the agency
will be followed. This shall be documented in the case record.
(7) The total number of children shall not exceed six (6) in num-
ber, including the foster parents' own children, unless the needs of the
individual child indicate the necessity for keeping sibling groups to-
gether. Justification for exceptions shall be documented in the record.
(8) A child shall not without prior notification to and written
authorization from the Kentucky Interstate Compact Administrator.
(e) Be placed with persons who normally reside in another state;
or
(b) Be permitted to go with any person to take up residence in
another state;]
(9) A home [(11) Homes] providing care of a foster child [foster
children] shall not be used simultaneously for any other social service
[services], including a day care center or a home [day care centers,or
homes] for the elderly. This shall not preclude the foster parent being
approved for adoption or an adoptive parent [adoptive parents] being
approved as a foster parent [foster parents].
(10) Each [(12) All] approved foster home [homes] in use shall be
evaluated on an annual basis. The results of the evaluation [evalua-
tions] shall be recorded in the case record.
(11) Each agency shall have a written agreement which states
the responsibilities of the agency and the foster parent [foster
parents] [(14) The child shall participate in the intake process and in
the decision that placement is appropriate to the extent that the child's
age, maturity and adjustment, family relationships, and a circum-
cumstance [circumstances] necessitating placement justifies [justify]
participation.
(12) The child-placing [(15) The] agency shall maintain an ongoing
orientation and preparation [training] program for its foster families. A
record of [Records of all] orientation and preparation [training] shall
be maintained.

Section 8. Placement of Foster Child. (1) The child-placing agency shall place a child only in an approved foster home.
(2) A child-placing agency shall have a maximum of two (2) children under two (2) years of age placed in the same foster home at the same time with the exception of:
(a) A sibling group who may remain together;
(b) A foster home where three (3) or more adult caregivers reside, the maximum number of children one (1) year of age and younger shall not exceed three (3) at any one (1) time; and
(c) Justification for an exception shall be documented in the foster parent file.
(3) The child-placing agency shall:
(a) Have a written agreement with the foster parent that states the responsibility of the child-placing agency and the foster parent and the terms of each placement shall be explained to the foster parent;
(b) Require the foster parent to certify, in writing, that supervision from the child-placing agency shall be allowed; and
(c) Document the placement in the foster parent file.
(4) The total number of children residing in the foster home shall not exceed six (6), including the foster parent's own children. Justification for an exception shall be documented in the foster parent file.
(5) Without prior notification to and written authorization from the Kentucky Interstate Compact Administrator, a child shall not be placed with a foster family or in another foster home if it is determined that the placement is in the best interest of the child.
(6) A foster home providing care of a foster child shall not be used simultaneously for any other social service, including a day care center or home for the elderly. This shall not preclude a foster parent being approved for adoption or an adoptive parent being approved as a foster parent.
(7) An approved foster home in use shall be evaluated on an annual basis for compliance with responsibilities listed in the written agreement pursuant to subsection (3)(a) of this section and preparation [training] requirements pursuant to Section 6(2) of this administrative regulation, with results recorded in the foster parent file.

Section 9. Orientation and Preparation [Training] of a Therapeutic Foster Family Care Home. (1) A child-placing agency shall:
(a) Maintain the orientation and preparation [training] curriculum on file; and
(b) Provide a minimum of thirty-six (36) hours of orientation and preparation [training] for a prospective therapeutic foster care parent that shall incorporate the following topic areas:
1. Child-placing agency program description with mission statement, case formation, and care plan development;
2. Visit the foster child at least once every two (2) months with at least one (1) visit in the foster home;
3. Visit the foster child face-to-face a minimum of two (2) times a month with at least one (1) visit in the foster home.
(c) Develop a caseload with at least ten (10) children, taking into account:
1. Required responsibilities other than the case management of a child in foster care;
2. Additional support, contact and preparation [training] of a therapeutic foster parent, due to the extent of the needs of the child served; and
3. The extent of the intensive services provided to the child and the child's family:
(a) Conduct a quarterly case consultation, including the foster parent, the child's public agency worker, the child-placing agency behavioral health professional and social services professional, and to the extent possible, the respective child and his family of origin;
(b) Identify the support needed by the fostered child, including a plan for respite care, a plan for twenty-four (24)-hour on-call crisis intervention, and a foster family support group.

Section 11. Private Placement Process. The following shall be the responsibility of the child-placing agency when a private placement is conducted, with exception of a child (those children) committed or otherwise made the legal responsibility of the cabinet or the Department of Juvenile Justice for Families and Children. In this

- 576 -
exception, service [these cases, services] shall be coordinated by the
cabinet, the Department of Juvenile Justice, and child-placing agency
staff. For children, foster care, and agency staff, however, Final
casework [responsibility] shall be the responsibility of the cabinet or
the Department of Juvenile Justice [for Families and Children].

(1) For a child entering into care, the child-placing agency shall
obtain an:
(a) Agreement for voluntary care signed by the custodian; or
(b) Order from a court of competent jurisdiction placing the child
into child-placing agency custody.

(2) The child-placing agency shall:
(a) Complete an intake assessment of the strengths and needs of
the child and his family of origin; and
(b) Ascertain the appropriateness of the referral for a child for
whom placement is being requested.

(3) The child-placing agency [social worker] shall be responsible
for developing an ITP for a child and his family based on an individu-
ally assessed assessment of the child's and family's needs. The assess-
ment shall be revised as needed. The assessment and ITP [individual
treatment plan (ITP) for each child and their biological family. The
plan shall include the type and extent of service to be provided to the
child and his family [services to be given to the biological-family to reha-
bilitate the home].

(4) The child, his parent, and carer [[60] The biological parents
and child] shall be included in developing the assessment and ITP un-
less not in the best interest of the child [placement plan unless con-
trained].

(5) The foster home selected for [60] The foster placement shall
be the most appropriate family for a child based on the child's needs
and strengths of the foster family. The foster home shall be located as
close [located as near] as possible to the family of origin [biological
parents' home to facilitate visiting and reunification].

(6) There shall be a semiannual review of the child's home of
origin home:

(a) The social services professional and the foster parent shall
work collaboratively to prepare the child for placement. A [60] Each
child shall have a period of preparation for the placement unless a

(7) A preplacement visit [60] Preplacement visitation by the child
under agency supervision shall be scheduled before final placement
in the foster home unless circumstances, that [which] shall be docu-
mented in the case record, preclude this visit.

(8) There shall be a semiannual review of the child's family home
of origin:

(a) The child-placing agency shall:
(a) Provide or arrange for basic support for the family of the child
for whom family reunification is the goal;
(b) Quarterly assess the parent's capacity for reunification;
(c) Provide for the review of the child in foster care to evaluate the
progress toward achieving the child's permanency goal; and
(d) Assure that foster care continues to be the best placement for
the child.

(10) Services to the family of origin [these visits]:
(1) Prior to placement, the social worker shall hold meetings with
the child to prepare him for the placement.

(2) Social services to the biological parents] and the child shall be
adapted to their individual capacities, needs, and problems. A rea-
sonable effort shall be made to return the child to the family of origin.

(11) [If parent refuses social-service], it shall be documented in the
record.

(12) Planning for the child regarding a matter [maters] including
but not limited to visitation, health, and education, and permanency
goal shall be developed with the;
(a) Family of origin;
(b) Behavioral health professional;
(c) Social services professional; and
(d) Foster parent.

(12) The child-placing agency shall work with a foster parent to
promote stability and avoid disruption for a child. A request for the
[parents, the social worker, and foster parents:
(10) Requests for a removal of a child from a foster home shall be
explored immediately and documented by the social services profes-
sional. If disruption is unavocable, the child-placing agency and foster
parent shall develop a plan for a smooth transition of the child to a
new placement.

(13) [Worker]:
(14) Preparation for the return of a child [a child's return] to the
[biological or home of origin] family shall be supervised by a social
services professional [worker]. The [biological] family shall participate
in planning for the child's return. If the child has not had regular con-
tact with his family, a plan [plans] for the child's return home shall
include:
(a) A minimum of one (1) prior visit [prior visits] between the child
and the family; and
(b) At least one (1) preliminary visit of the child to his family's
home.

(14) Aftercare service shall be provided to the child and family to
the extent the child and family continue to need supportive service.
Documented of a service provided to the child and family after re-
turn to the family home shall be kept by the child-placing agency,
[parents']. Home: if the child is committed to the Cabinet for Families
and Children and the parents reside a considerable distance from the
agency, attempts shall be made for providing services to the parents:
If the agency is unable to provide services directly to the child's par-
ents, the executive director of the agency shall request the Cabinet for
Families and Children to provide services. The services and plan shall be
documented in the case record. Provisions shall be made for ex-
change of information at least quarterly and more often if circum-
cstances warrant.

(15) The agency shall provide for the semiannual review of the
children in foster care to assure that foster care continues to be the
best plan for each child.

Section 12.7(1) Supervision of a Child in a Foster Home [Children
in Foster Homes]. [(4)] The child-placing agency shall:
(1) Make a supervisory visit to the foster home at least once (1)
time per month;
(2) Document each supervisory contact and the reason for the
contact in the child's placement plan;
(3) Identify and make available necessary services to the foster
family, including a plan for parent care, twenty-four (24) hour crisis
intervention and a foster family support group;

(4) Maintain continuing supervision of the child and foster home
while the child is in placement. The agency shall assur that the child
is receiving care in accordance with his needs;

(5) The agency shall provide information to a foster parent [the
foster-parents] regarding the child's behavior and development.

(6) Document every effort to see that the legal rights of the family
and the child are protected and that the family ties are maintained
between the child and his family pursuant to the child's permanency
plan:

(7) Assure that a child shall have clothing for his exclusive use
comparable in quality and variety to that worn by another child with
whom he will associate;

(8) Be responsible for seeing that a child complies with school
attendance laws;

(9) Secure psychological and psychiatric services, vocational
counseling, and other services if indicated by the child's needs;

(10) Assess the child's placement and permanency goal semi-
annually.

(11) Upon placement of a child in a foster home, the responsible
worker shall make a monthly [every month] supervisory visit to the
home. The individual needs of the child shall dictate if more frequent
visitation is necessary. The number of contacts and the rationale shall
be specified in the plan.

(3) The agency shall document every effort to see that the legal
rights of parents and the child are protected and that the family ties are
maintained between the child and his parents:

(4) Each child shall have clothing for his exclusive use comparable
in quality and variety to that worn by other children with whom he will
associate;

(5) The agency shall be responsible for seeing that children comply
with state school attendance laws;

(6) The agency shall secure psychological and psychiatric ser-
ices, vocational counseling, and other services if indicated by the
child's needs;
(7) If the plan for long-term foster care for a child has been determined and justified; the plan shall be reassessed annually.

Section 13, [8] Maintenance of the Foster Care Record [Foster Care Records]. (1) The child-placing agency shall maintain a record on a [records on each] child, his family, and [on the foster parent. The record [families. These records] shall show the reason [reasons] for placement change [changes] and steps taken to insure success. A case record shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality; pursuant to KRS 61.879, 199.430(3), 199.640, and 200 KAR 1:050.

(2) The record of the child shall include:
(a) Identifying information for child, parent, and foster parent;
(b) Commitment order or custodian's consent for admission;
(c) Birth and immunization certificate;
(d) Educational record;
(e) Medical and dental record since placement;
(f) Social history and assessment;
(g) ITP and review;
(h) Permanency goals;
(i) Incident report;
(j) Monthly progress notes based on the ITP;
(k) Correspondence with the court, family, Department for Community Based Services, Department for Juvenile Justice, and
(l) Discharge report.

(3) The foster parent's record shall include documentation relating to the:
(a) Orientation and preparation [training] of the parent, including the narrative summary of the foster home evaluation;
(b) Required ongoing training hours and the topic covered;
(c) Placement of the child;
(d) Narrative summary of the annual foster home evaluation; and
(e) Supervision of the foster home, including critical incidents.

(2) Social work staff shall document in case records the results of regular social service and progress toward goals which have been established for the child and family.

(3) Copies of all correspondence relating to the child shall be maintained.

(4) The date of discharge and the name and address of the person or organization to whom the child is discharged shall be recorded.

(5) The discharge record shall reflect the reason for the discharge.

(6) All case records shall be maintained in conformity with existing laws and regulations pertaining to confidentiality; KRS 61.879, 199.430(3), 199.640, and 200 KAR 1:050.

Section 14, [9] Evaluation of Potential Adoptive Placement [Homes]. (1) The child-placing agency shall assess as an adoptive parent, an applicant who:
(a) Is [select as adoptive parents applicants:]
(b) Who are capable of providing for the child's care, support, education, and character development; and
(c) Has [who have] the ability to understand and accept the child's characteristics, potential, and limitations.

(2) Adoptive placement of a child shall not be made prior to the approval of a home as an adoptive home.

(3) The child-placing agency shall complete a written study of the adoptive placement that [home which] shall include the following:
(a) A minimum of one (1) adoptive home visit by the adoption worker;
(b) A face-to-face interview [Face-to-face interviews], both joint and separate, [shall be] conducted with each member of the household;
(c) Social services professional's [Worker's] evaluation of the adoptive home situation;
(d) The functioning of the total adoptive family [household shall be] considered in determining the suitability of the placement; and [home:]
(e) Three (3) written personal references indicating the suitability of the adoptive home and of the potential adoptive parent;
(f) Attitude [parents:]
(4) The written study of the home of the applicant documents:
(a) Attitudes of household members toward placement of an adoptive child into the adoptive home;
(b) Observation [Observations] of the functioning of the potential adoptive family including interpersonal relationships and patterns of interaction;
(b) [related services:]
(c) The nonmarriage relationship [relationship:]
(d) [related services:]
(e) Certification by a licensed physician or other licensed health care professional current within the last twelve (12) months, regarding the physical and mental ability of the adoptive family to provide necessary care for the child;
(f) Acceptable [acceptable:]
(g) Water supply and sanitation compliance with all state and local health requirements;
(h) Suitability of indoor [in:] and out-of-door play space according to the age and needs of the child;
(i) Accessibility of the adoptive home to the applicable [home to:] community resources;
(j) A criminal record check, including an out-of-state check if the parent has lived outside the state within the past ten (10) years, a child abuse and neglect registry check, adult protective services registry check and a nurse's aide registry check:
(1) A criminal records check on each adult residing in the household;
(2) Verification of a current marriage and a prior divorce or death of a spouse [all marriages and divorces] of the potential adoptive parent;
(3) A minimum of three (3) written references; and
(4) [Parents:]
(5) The economic circumstance [circumstances] of the potential adoptive parent is [are] sufficient to meet the needs of the child.

(3) A child-placing agency [ Agencies] shall clearly define the qualifications required of the [they require] of potential adoptive applicant.

Section 15, [16] Adoption Placement Process. (1) A child shall not be placed for adoption until the:
(a) Adoptive home has been approved;
(b) Parental rights of the mother, legal father and a putative father of a child if the same person as the legal father [biological parents and legal parents] are terminated by a court order pursuant to KRS Chapter 625 [in accordance with Kentucky Revised Statutes] and
(c) [the] Child's custody is placed with the child-placing agency for the purpose of adoption placement.

(2) A parent [Parents] shall not be induced to terminate parental rights by a promise of financial aid or other consideration.

(3) The authority granted to a child-placing agency [agencies] licensed by the cabinet authorizing them to place a child for adoption shall not be used to facilitate an adoption placement planned by a doctor, lawyer, clergyman, or others outside the child-placing [adoptive placements planned by doctors, lawyers, clergyman, and others outside the agency]. The child-placing agency shall comply with provisions of 522 KAR 1:010; Application for permission to place or receive a child.

(4) The following shall be obtained by the child-placing agency: [A developmental history of the adoptive child and social history of the biological parents shall be obtained. Information shall be obtained from direct study and observation of the child by the social worker, pediatrician, foster parents, and if indicated, by the nurse, psychologist and other consultants. To comply with KRS 199.529 and 199.572, child-placing agencies shall assist the biological parents in completing forms prescribed by Cabinet for Families and Children policy and procedure:
(a) A developmental history of the adoptive child to include: [The child's developmental history shall include as much of the following as is available:]
1. Birth and health history;
2. Early development;
3. Characteristic ways of the child of responding to people and [situations];
4. Deprivation [Deprivations] from the range of normal development;
5. The experiences of the child prior to the decision to place him for adoption;
7. Continuity of parental care and affection;
8. Out-of-home placement history; [ Foster care placements; and]
9. Separation experiences; and
10. Information about the mother and legal father and a putative father, if not the same person as the legal father, about family background that may affect the child's normal development to determine whether there are significant hereditary factors or pathology, including an illness of the biological mother or father.
(b) A social history of the biological or legal parent may include:
1. Name;
2. Age;
3. Nationality;
4. Education;
5. Religion; and
6. Occupation;
7. Information obtained from direct study and observation of the child by the:
1. Social services professional;
2. Physician or other licensed health care professional and if indicated;
3. Foster parent;
4. Nurse;
5. Psychologist; and
6. Other consultants.
(b) Information that may affect the child's normal development shall be obtained from the biological mother and father about their family background may include:
1. Name;
2. Age;
3. Nationality;
4. Education;
5. Religion;
6. Occupation; and
7. Information determined whether there are any significant hereditary factors or pathology, including illness of the biological mother or father.
(b) [408] Information shall be obtained from the mother, if possible:
1. To the identity of the biological father or legal father, if different from the biological father, for the purposes of determining the parent's rights; and
2. Establishment of the possible hereditary endowments.
(c) If either biological or legal parent is unavailable, unwilling, or unable to assist with the completion of information necessary to comply with KRS 199.520 and 199.572, the child-placing agency shall determine information to the extent possible from the existing case record.
(d) A medical examination shall be made by a licensed physician or other licensed health professional to determine:
1. The state of the child's health;
2. Any significant factor that may interfere with normal development; and
3. The implications of any medical problem.
(e) The condition shall be determined on the child's condition under which an adoptive parent agrees to [adoptive parents] accept the child shall be decided upon prior to placement of the child. The [agreed- upon- the] written agreement between the child-placing agency and the adoptive parent shall embody the following provisions:
(a) The adoptive parent shall agree to:
1. [.parents] Comply with KRS 199.470;
2. [.and agree to] File an adoptive petition at a time agreeable to them and the child-placing agency; and
3. [agency;
(b) The adoptive parents agree to:
1. Permit supervision by the child-placing agency during the period of time;
   a. After placement; and
   b. [2.] Preceding the final judgment by the circuit court;
2. Pursuant to KRS 199.520(4) the child-placing agency shall be:
   c. The agency is responsible for providing the adoptive parents with written information regarding the child's background;
3. [Medical history]; and
4. Medical information necessary to comply with KRS 199.520.
(c) [69] The adoptive parent and the child-placing [parents-and the agency] shall agree that the child may be removed from the placement, (temary) at the request of either party, before the filing of the adoption petition.
(d) [69] Preplacement visits [meetings] shall be arranged for the adoptive parent and a child with the pattern and number of visits based on the age, development, and needs of the child.
(e) [Parents and any child one (1) month of age or older] (g) If preparing the child for placement with the selected adoptive parent, the child-placing [parents, the agency shall discuss with the child's readiness to accept this placement pursuant to [in accordance with] the child's age and ability to understand.
(f) Siblings who have had a relationship with one another shall be placed together unless it is determined to be more beneficial for them to be placed in separate adoptive homes. [Continued contact between siblings in separate homes shall be maintained if possible:] If siblings have been separated placements:
1. The case record shall reflect a valid basis for the separation;
2. The decision to separate siblings shall be made by the executive director of the child-placing agency; and
3. Continued contact between siblings shall be maintained, if possible.
Section 16. [44] Supervision of an Adoptive Placement [Adoptive Homes]. (1) The child-placing agency placing a child shall remain responsible for him until the adoption has been granted. This responsibility involves the following:
(a) Two (2) meetings by the social services worker with the child and the adoptive family including both adoptive parents if not a single parent adoption, one (1) of which shall be in the adoptive home prior to filing of the adoption petition.
(b) The termination of supervisory visits and contacts until the adoption is legally granted.
(c) [Awareness of a change, changes] in the adoptive family including health, education, and behavior.
(2) Upon request of the cabinet the child-placing [for families and children, the agency] shall:
(a) Provide information pursuant to KRS 199.510 that is required to report to the court to proceed with the adoption;
(b) [Upon the request of the cabinet for filing with the appropriate court:] The agency-placing the child shall:
(e) Prepare a confidential report to the court and
(f) Forward the original and one (1) copy of this report and a copy of information pursuant to [required by KRS 199.520 and 199.572 to the cabinet for families and children];
3. [If the court finds the adoptive parent, parents, to be unsuitable and refuses to grant a judgment, the child-placing agency shall remove the child from the home.
Section 17. [42] Maintenance of Adoptive Case Record. (1) The child-placing agency shall maintain a case record from the time of the application for services through the completed legal adoption and termination of child-placing agency service on:
(a) A [Each] child accepted for care;
(b) His family; and
(c) An [Each] adoptive applicant.
(2) The case record shall contain material on which the child-placing agency decision may be based and shall include or preserve:
(a) Written information and documents needed by the court;
(b) Preserve] Information about the child and his family;
(c) [Include] a narrative summary of the services provided with a copy of all legal and other pertinent documents; and
(d) Information gathered during the intake study including:
1. A description of facts about the child's family situation that necessitated placement of the child away from his family or the agency terminated parental rights;
2. A certified copy of the order of the court terminating pa-
rental rights and committing the child to the child-placing agency for the purpose of adoption;
3. Verification of the child's birth record and the registration number;
4. A copy of the child's medical record up to the time of placement;
5. A copy of the required evaluation (study) of the adoptive placement (home);
6. Date of adoptive placement in the adoptive home;
7. A statement of the basis of the selection of this adoptive home for the child;
8. A record of after-placement services with dates of visits, contacts, and evaluations;
9. Dates of filing of petition and granting of judgments and other significant court proceedings relative to the adoption; and
10. Child's adoptive name.
(3) If there is need to share background information with a party (outside the agency) to a completed adoption or to have the benefits of information from a closed adoption record to offer services following completion of an adoption, the child-placing agency shall comply pursuant to (with) KRS 199.570.
(4) Records on adoption that contain pertinent information, shall be:
(a) Maintained indefinitely following final placement of a child; and
(b) Each individual record shall be sealed and secured from unauthorized scrutiny.

Section 18. Independent Living. The following additional requirements apply to a child-placing agency providing independent living programming:
(1) The child-placing agency shall develop and implement written policy and procedures that address its independent living program, including:
(a) Curriculum for teaching and practicing of independent living skills including:
1. Employment;
2. Education;
3. Money management;
4. Housing and home management;
5. Use of community resources including:
   a. Transportation;
   b. Voting rights and registration; and
6. Personal and legal documents;
7. Interpersonal skills;
8. Communication;
9. Self-esteem;
10. Anger management;
11. Problem-solving; and
12. Basic knowledge of:
   a. Nutrition;
   b. Food preparation;
   c. Health and
   d. Sexuality issues.
(b) Written individual treatment plan developed within twenty-one (21) days of placement to include:
1. Goals;
2. Objectives;
3. Method of service delivery;
4. Person responsible for each activity;
5. Specific time frames; and
6. Identification of a discharge plan.
7. Written plan for aftercare services; and
8. Written plan for services from a cooperating agency.
9. When offered, independent living services shall be tailored to meet the needs of the individual.
10. If an independent living program exists outside the child-placing agency, the program director shall document that local fire and building codes are met.
11. A staff person shall be responsible for and have daily contact with each child in the independent living program.
12. The child-placing agency shall maintain documentation for each youth concerning:
   (a) An assessment of the youth's readiness to live independently;
   (b) Progress each youth has made in independent living skills training;
   (c) Assistance to the youth in finding and keeping in touch with family if possible;
   (d) Staff observation of the living arrangement; and
   (e) Progress in an educational program.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
HIRESH DESAI, Attorney
APPROVED BY AGENCY: June 30, 2000
FILED WITH OCR: June 29, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director
1. Type and number of entities affected: The affected entities are six child-placing agencies.
2. Direct and indirect costs or savings on those affected: None
3. Effects on the promulgating administrative body:
   (a) Direct and indirect costs or savings to the agency:
   1. First year: None
   2. Second and subsequent years: None
   (b) Reporting and paperwork requirements: None
   (c) Assessment of anticipated effect on state and local revenues: None
   (d) 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: No public hearing was requested as a result of the Notice of Intent being published. Written comments received did not indicate impact on the geographical area.
(b) Kentucky: No public hearing was requested as a result of the notice of Intent being published. Written comments received did not indicate there will be an economic impact from this administrative regulation.
7. Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
8. Assessment of expected benefits:
   (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
   (b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect.
   (c) If detrimental effect would result, explain detrimental effect: N/A
   (d) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
   (e) Necessity of proposed regulation if in conflict: None
   (f) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
   (g) Any additional information or comments: None
11. TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.
CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amended After Hearing)


RELATES TO: KRS 199.125(3), 198B.059 to 198B.090, 198B.111(2), (3), (4), (6), (7), (10), (11), 199.640, 199.645, 199.650, 199.660, 199.670, 211.350 to 211.380, 214.034(4), Chapter 424, 600.020, 615.010, 615.030, 615.040, 620.020
STATUTORY AUTHORITY: KRS 194.030(4), 194B.059(1), 199.640(3), (5), 199.645, 615.050
NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.640(3) and (5) authorize the Cabinet for Families and Children to promulgate administrative regulations relating to standards of care and service for emergency shelter child-caring facilities.

Section 1. Definitions. (1) "Child" is defined at KRS 199.011(4), 600.020(5), and 610.110(6).
(2) "Crisis intervention unit" means a unit operated that serves a child in need of short-term intensive treatment and to avoid risk of placement to a higher level of care.
(3) "Emergency shelter" is defined at KRS 600.020(19).
(4) "Treatment" means individualized management and care of a child utilizing professionally credentialed and certified staff and a component of the treatment environment to assist the child in resolving his emotional conflict or behavioral disorder.

Section 2. Administration and Operation. (1) Licensing procedures. Licensing procedures for an emergency child-caring facility shall be administered pursuant to 922 KAR 1:305.
(2) Except pursuant to 922 KAR 1:300, Section 7(1)(e), (2)(a), 2, 3, 4, (b), 3 and 4, (c), (3), (4), (a), (5), (6), (c), (d), (e) and (g), the emergency shelter child-caring facility shall meet the requirements of 922 KAR 1:300.

Section 3. Emergency Shelter Child-caring Facility Services. (1) An emergency shelter child-caring facility that is part of a program offering a treatment service shall be in compliance pursuant to 922 KAR 1:390, Section 4.
(2) If an emergency shelter care program is part of a larger organization providing other child-caring or child-placing services pursuant to 922 KAR 1:310, there shall be a separate designated person to serve as coordinator of the emergency shelter child-caring facility.
(3) The following information regarding the child shall be obtained by the emergency shelter child-caring facility from the child’s custodian during intake:
(a) Commitment order, temporary custody order or signed voluntary admission form;
(b) Basic identifying information on the child including:
1. Name and birthdate;
2. Address, and name and address of parent or guardian;
3. Last school attended and grade level; and
4. Medical information if known;
(c) If the child is a walk-in to the program and no custodian is available, the emergency shelter child-caring facility shall obtain a placement agreement with the custodian within seventy-two (72) hours;
(d) The emergency child-caring facility shall have written policy and procedure that describe the condition under which a child may be discharged;
(e) Discharge planning shall begin immediately upon admission of a child; and
(f) The emergency shelter child-caring facility shall prepare written discharge summary within five (5) days following the date of discharge. A copy shall be provided to the custody holder.

Section 4. Crisis Intervention Unit. An emergency service provided in a crisis intervention unit shall be provided pursuant to 922 KAR 1:390, Section 5.

DIETRA PARIS, Commissioner

VOLUME 27, NUMBER 2 – AUGUST 1, 2000

VIOLA P. MILLER, Secretary
HIRED DESAI, Attorney
APPROVED BY AGENCY: June 23, 2000
FILED WITH LRC: June 29, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Cathy G. Mobley
(1) Type and number of entities affected: The affected entities are 112 child-caring facilities.
(2) Direct and indirect costs or savings on those affected: None
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written 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 comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments received.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (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 to the agency:
1. First year: None
2. Continuing cost or savings: None
3. Additional factors increasing or decreasing cost: 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: No public hearing was requested as the result of the Notice of Intent being published and no written comments were received.
(b) Kentucky: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the public hearing on this ordinary administrative regulation.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect.
(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 regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(10) Any additional information or comments: None
(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through regulatory and statutory requirements.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Amended After Hearing)


RELATES TO: KRS 189.125(3), 1988.050 to 1988.090, 199.011(2), (3), (4), (6), (7), (10), (11), 199.640, 199.645, 199.650, 199.660, 199.670, 211.350 to 211.380, 214.034(4), Chapter 424, 600.020, 610.110(6), 615.010, 615.030, 615.040, 620.020

STATUTORY AUTHORITY: KRS 194B.050(1), 199.640(3), (5), 199.645, 515.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS-199.640(3) and (5) authorize the Cabinet for Families and Children to promulgate administrative regulations relating to standards of care and service for residential child-caring facilities.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Families and Children.
(2) "Child" is defined at KRS 199.011(4), 600.020(5), and 610.110(6).
(3) "Child-caring facility" is defined at KRS 199.011(6) and 199.641(1)(b).
(4) "Child-caring program" means the method of delivering a child-caring service.
(5) "Community resources" means a service or activity available in the community that supplements those provided by the child-caring facility agency in the care and treatment of a child.
(6) "Crisis intervention unit" means a unit operated as part of a residential treatment program that serves a child in need of short term intensive treatment and to avoid risk of placement to a higher level of care.
(7) "Executive director" means an executive director as defined at 922 KAR 1:300, Section 1(18).
(8) "Group home" is defined at KRS 199.011(10).
(9) "Individual treatment plan (ITP)" means a plan of action developed and implemented to address the needs of a child.
(10) "Latching device" means an instrument used to secure a seclusion room door that does not require the use of a key or combination.
(11) "Living unit" means a building or part thereof in which a child resides, not exceeding sixteen (16) beds.
(12) "Residential child-caring facility" means an institution or group home providing twenty-four (24) hour care.
(13) "Residential treatment program" means a residential facility providing an intensive professional treatment oriented service.
(14) "Seclusion room" means a room in a residential treatment facility for the temporary seclusion of a child in danger of harming himself or others that may use a latching device to secure the door.
(15) "Treatment" means individualized management and care of a child utilizing professionally credentialed and certified staff, and a component of the treatment environment to assist the child in resolving his emotional conflict or behavioral disorder.
(16) "Treatment director" means a qualified mental health professional:
(a) As defined at KRS 600.020(42); or
(b) A behavioral health professional to include:
1. Psychologist licensed pursuant to KRS 319.050;
2. Psychologist with autonomous functioning certified pursuant to KRS 310.056;
3. Clinical social worker licensed pursuant to KRS 335.100;
4. Marriage and family therapist licensed pursuant to KRS 335.300;
5. Professional art therapist certified pursuant to KRS 309.130; and
6. Certified psychologist licensed pursuant to KRS 319.056.
(17) "Treatment team" means a representative group of people who provide services to the child and the child's family.

Section 2. Administration and Operation. (1) Licensing procedures. Licensing procedures for a residential child-caring facility shall be in compliance pursuant to 922 KAR 1:305 for a child-caring facility.
(2) The residential child-caring facility shall meet the requirements of 922 KAR 1:300, Sections 5(2) through (7) and 4 through 7.

Section 3. Residential Child-caring Facility Services. (1) The child-caring program services for a residential child-caring facility shall be in compliance pursuant to 922 KAR 1:300, Section 7.
(2) Unless a child is a member of a family group placed in a residential child-caring facility, a child under six (6) shall not be placed in the residential child-caring facility unless that facility is also licensed to provide emergency shelter service pursuant to 922 KAR 1:380.

Section 4. Residential Treatment Program. The following additional requirements shall apply to a residential child-caring facility providing intensive treatment oriented services.
(1) Professional treatment services:
(a) If a child has an assessed need for professional psychological or psychiatric treatment service and other professional treatment service not provided by the residential child-caring facility, the residential child-caring facility shall secure these services.
(b) The admission decision shall be the responsibility of a treatment team comprised of clinical, social service, and other disciplines designated by the residential child-caring facility's treatment director.
(c) After assessment and development of the ITP pursuant to 922 KAR 1:300, Section 7(2), the treatment team shall identify services to meet the needs of the child and his family. The services shall be provided by the residential child-caring facility or arranged through contract with another qualified residential child-caring facility or child-placing agency pursuant to 922 KAR 1:310, or treatment professional and shall include a minimum of weekly:
1. Individual counseling from a social worker or other treatment professional, and
2. Group counseling conducted by a trained social worker or other treatment professional as determined appropriate by the treatment team and under the supervision of the treatment director.
(d) Other services that are identified after the assessment and development of the ITP by the treatment team may include:
1. Psychiatric counseling;
2. Specialized therapy recognized by mental health credentialing authority;
3. Family counseling;
(e) A residential child-caring facility shall become accredited by a nationally recognized accreditation organization within four (4) years of the effective date of this administrative regulation or upon the initial issuance of a license for treatment in order to maintain the treatment license.
(2) Staffing requirement:
(a) The child-caring facility shall maintain a staff to child ratio of no less than one (1) child care staff member to six (6) children during the child's waking hours. Nighttime staff shall include at least one (1) staff member in each building that remains awake at all times. One (1) child care staff member for every twelve (12) children in a living unit shall be present during nonwaking hours.
(b) The treatment director shall be a qualified mental health professional as defined pursuant to KRS 600.020(42) or a behavioral health professional as defined in Section 1(16) of this administrative regulation. The treatment director shall be responsible for the supervision, evaluation, and monitoring of the treatment program, social work and other treatment staff. A residential child-caring facility providing a treatment service for more than thirty (30) children shall employ a separate treatment director other than the executive director.
(c) A residential child-caring facility providing a treatment service for thirty (30) or less children may utilize the executive director in a dual role as treatment director, provided that at least fifty (50) percent of his duties are spent supervising the treatment program. In an instance where an employee serves as executive director and treatment director in a child-caring facility, the higher staff qualification shall apply.
(3) Seclusion room:
(a) A residential child-caring facility shall have clearly defined written policy and procedure for placement of a child into a seclusion room.
(b) A seclusion room shall:
1. Be utilized only if the child is in danger of harming himself or
another and the effort made to desensitize the child's behavior prior to placement has been proven to be ineffective; and
2. Not be utilized as punishment or for the convenience of staff.
(c) Approval from the treatment director or treatment staff designate pursuant to 922 KAR 1:300, Section 3(4)(b), shall be obtained prior to or within fifteen (15) minutes of the individual placement of a child into a seclusion room.
(d) More than one (1) child shall not be placed into the seclusion room at a time.
(e) An object that may be used for self-harm shall be removed from the child before he is placed into the seclusion room.
(f) Except for a belt and shoes, a child's clothing shall not be removed while he is placed into a seclusion room.
(g) A child shall not be placed into a seclusion room with a latching device for longer than one (1) hour within a twenty-four (24) hour period. Provided his behavior is stabilized, the child shall be released from seclusion in less than one (1) hour.
(h) If a child requires repeated placement into a latched seclusion room, a treatment team meeting shall be conducted by the treatment director to reassess the child's ITP, including referring the child to a higher level of care.
(i) Staff shall have a copy of the policy and procedure for placement of a child into a seclusion room.
(j) Staff employed by a residential treatment facility that utilizes a seclusion room shall have training in the proper use of the seclusion room. The training requirements may be included as part of the forty (40) hours annual training pursuant to 922 KAR 1:300, Section 3(6)(h)(2).
(k) If a child is in the seclusion room, a staff member shall visually observe the child every five (5) minutes.
(l) Staff shall document the following information regarding the seclusion room in the child's record:
1. An intervention to desensitize the child's behavior prior to placement;
2. Date and time of placement;
3. Date and time of removal;
4. Reason for placement;
5. Name of each staff involved;
6. Treatment director's or designee's approval;
7. Five (5) minute visual observation by staff of the child's placement; and
8. Intervention provided by treatment staff when the child leaves the seclusion room.
(m) A room used for a seclusion room shall be:
1. Lighted, ventilated, and maintained at a temperature consistent with the rest of the child-care facility and an area observable if the door is closed;
2. At least fifty-six (56) square feet in size; and
3. Free from an exposed object that allows the child to do self-harm.
(n) Immediately upon the child's exit from a seclusion room, treatment staff shall provide therapeutic intervention.
(o) Exclusive of weekends and holidays an incident report shall be completed by designated treatment staff on the child's placement into the seclusion room, reviewed, and signed by the treatment director or designee and the program director or designee within forty-eight (48) hours.

Section 5. Crisis Intervention Unit. (1) An emergency service provided in a crisis intervention unit shall include the following:
(a) A mental status evaluation and physical health questionnaire of the child upon admission;
(b) A treatment planning process;
(c) Procedure for crisis intervention; and
(d) Discharge and aftercare planning processes.
(2) A program shall have a written policy concerning the operation of a crisis intervention unit.
(a) Staffing.
1. At least one (1) direct-care staff member shall be assigned direct-care responsibility for:
   a. Each four (4) children during normal waking hours; and
   b. Each six (6) children during normal sleeping hours;
2. Administrative oversight of the program shall be provided by a staff member who shall be a:
   a. Treatment director; or
   b. Person qualified to be executive director as defined pursuant to 922 KAR 1:300, Section 1(18).
(b) The service of a licensed psychiatrist shall be available to evaluate, provide treatment, and to participate in the treatment planning.
(c) Intake and services.
1. Upon admission, the crisis intervention program shall provide the child and his parent, guardian, or other legal representative with a clearly written and legible statement of rights and responsibilities; or
2. If unable to read the statement of rights and responsibilities, the statement shall be read to the child and his parent, guardian, or other legal representative;
3. Written policy and procedure developed in consultation with professional and direct-care staff shall provide:
   a. For behavior management of a child including the use of time-out; and
   b. An explanation of behavior management techniques to a child and his parent, or guardian or other legal representative;
(3) The crisis stabilization unit shall prohibit the use of a:
   (a) Seclusion room pursuant to Section 4(3) of this administrative regulation; and
   (b) A mechanical restraint.
Section 6. Group Home. The following additional requirements shall apply to a group home program.
(1) Documentation of evidence of publication of a "notice of intent" in an area newspaper pursuant to KRS Chapter 424 advertising that:
(a) A public hearing shall be held if requested by citizens in the community or appropriate local governmental entity; and
(b) Information obtained at the hearing shall be made available to the public and the cabinet;
(2) A staff to child ratio of one (1) child-caring staff member for each four (4) children or fraction thereof, with an on-duty staff member who is away from the group home with a child included for the computation of this ratio; and
(3) Documentation of utilization of community resources and encouraging a child to participate in community activities.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
HIREN DESAI, Attorney
APPROVED BY AGENCY: June 23, 2000
FILED WITH LRC: June 29, 2000 at 11 a.m.

REGULATORY IMPACT ANALYSIS
Agency Contact: Cathy G. Mobley
(1) Type and number of entities affected: The affected entities are 112 child-caring facilities.
(2) Direct and indirect costs or savings on those affected: None
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written 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 comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments received.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (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 to the agency: 1. First year: None
2. Continuing cost or savings: None
3. Additional factors increasing or decreasing cost: None
(b) Reporting and paperwork requirements: None
(4) Assessment of anticipated effect on state and local revenues: None

- 583 -
(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: No public hearing was requested as the result of the Notice of Intent being published and no written comments were received.
   (b) Kentucky: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the public hearing on this ordinary administrative regulation.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(8) Assessment of expected benefits:
   (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
   (b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect.
   (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 regulation if in conflict: None
   (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(10) Any additional information or comments: None
(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through regulatory and statutory requirements.
STATE BOARD OF ACCOUNTANCY
( Amendment)

201 KAR 1:050. License [Certificate] application.

RELATES TO: 325.261, 325.280, 325.330 [KRS 325.261; sec. 4; 5]

STATUTORY AUTHORITY: KRS 325.240
NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.261 establishes the standards for licensure as a certified public accountant. KRS 325.280 establishes the standards for licensure as a certified public accountant by reciprocity. KRS 325.330 establishes the process for issuing a license. This administrative regulation describes the procedure to obtain a license [certificate] as a certified public accountant. Section 1. (1) A person who has met the qualifications established [set forth] in KRS 325.261 may submit the "Application for License [Certificate] as a Kentucky Certified Public Accountant".

(a) The application shall be filed within five (5) years after successful completion of the examination;
(b) Waiver of this five (5) year period may be granted to individuals for good cause upon application to the board;
(c) With his application, the applicant shall include:
   (a) A check or money order made payable to the "Kentucky State Board of Accountancy" for $100 [twenty-five (25) dollars], which is nonrefundable;
   (b) The certificate of experience as described in 201 KAR 1:062;
   (c) One (1) photograph taken within ninety (90) days preceding the application, the back of which shall contain the signature in ink of the applicant;
   (d) A list of colleges and universities with graduation dates, degrees awarded, and the official transcript described in 201 KAR 1:130, unless it is already in possession of the board; and
   (e) Evidence of completion of an examination on KRS Chapter 925: the administrative regulations promulgated by the board, and other related questions as the board may deem appropriate; and
   (f) Proof of successful completion of the Uniform Certified Public Accountants Examination. If the applicant successfully completed the examination in Kentucky, no documentation is required. If the examination was successfully completed in another jurisdiction, he shall have an "Authorization of Interstate Exchange of Information" submitted to the board on his behalf.

Section 2. License. The act of filing an application for a certificate shall constitute an agreement that the applicant shall submit the permit to practice application as described in KRS 325.930:

Section 3. Certificate by Reciprocity. (1) An applicant for a license [certificate] by reciprocity shall submit or cause to have submitted:
(a) Information required by Section 1(2) of this administrative regulation, except for an official transcript; and
(b) A form, "Authorization for Interstate Exchange of Information", completed by the licensing jurisdiction where the applicant holds a valid and active license [certificate and current permit] to practice.

(2) The candidate cannot provide the certificate of experience as requested in Section 1 of this administrative regulation; and:
(a) Is applying under the provisions of KRS 325.280(1)(c)(1) [2], he shall have the licensing jurisdiction where he holds a valid and active license [certificate and current permit] to practice of experience requirement documents from his license file; or
(b) Is applying under the provisions of KRS 325.280(1)(c) [2], he shall submit or cause to have submitted one (1) of the following documents which clearly reflects that the candidate has practiced public accounting as a full-time profession for four (4) of the last ten (10) years:
   1. Proof of public accounting errors and omissions insurance;
   2. A letter from an attorney, client, or certified public accountant who has knowledge of the candidate's practice;
   3. Copies of firm license applications; or

Section 3, [4] Incorporation by Reference. (1) The following materials are incorporated by reference:
(a) "Application for License [Certificate] as a Kentucky Certified Public Accountant [KRS 325.930]; and
(b) Authorization for Interstate Exchange of Information, (2000 [4944]).

(2) This material [These documents] may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy [board office], 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, 8 [between 8:30 a.m. to 4:30 p.m.; Monday through Friday.]

MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000 at 10 a.m., EDT at the administrative offices of the board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 2000, five days prior to the meeting, 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for such 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: Susan G. Stopher, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Phone: (502) 595-3037, Fax: (502) 595-4281.

REGULATORY IMPACT ANALYSIS
Agency Contact: Susan G. Stopher

(1) Type and number of entities affected: This applies to 250 persons applying to become a Kentucky certified public accountant 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: No effect will be noted.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received.
(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing, costs (note any effects upon competition) for the:
   1. First year following implementation: The regulation reduces the application process from a 2-step to a one-step process. Costs are reduced by $25.
   2. Second and subsequent years: The paperwork and costs continue as in the first year.
   3. Effects on the promulgating administrative body:
      (a) Direct and indirect costs or savings:
        1. First year: Reduces fees by $6,250, which is offset by the reduced costs by combining the 2-step process into one application.
        2. Continuing costs or savings: The effect is the same each year.
        3. Additional factors increasing or decreasing costs: There are no other costs.
      (b) Reporting and paperwork requirements: The reporting and paperwork is easier for the applicant.
      (4) Assessment of anticipated effect on state and local revenues:
         State revenues are reduced by $25 per applicant.
      (5) Source of revenue to be used for implementation and enforcement of administrative regulation: Trust and Agency Funds.
STATE BOARD OF ACCOUNTANCY


RELATES TO: 1994 Ky. Acts ch. 248, sec. 4
STATUTORY AUTHORITY: KRS 325.240
NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.261 establishes the standards for licensure as a certified public accountant. This administrative regulation describes the experience to be documented when one applies to become a certified public accountant.

Section 1. Definitions. (1) "One (1) year" means the completion of 2000 hours of work obtained after the award of a baccalaureate degree during an employment period of not less than twelve (12) months. The hours of employment shall not include any leave or holiday time.

(2) "Verification" means an actively-licensed certified public accountant of this or any state confirming the truth or accuracy of the applicant's accounting or attest experience. "Supervision" means a certified public accountant of this or any state coordinating, guiding, inspecting, controlling and evaluating the activity of an employee.

Section 2. (1) An [A -certificate] applicant for licensure shall have submitted by the [his] certified public accountant verifying the experience [supervisor] a "Certificate of Experience".

(2) If the applicant has been employed by more than one (1) employer to meet the experience requirement described in KRS 325.261 and this administrative regulation, a certificate shall be submitted for each employment situation, by each certified public accountant [supervisor].

(3) Work experience, gained after the awarding of a baccalaureate degree, shall be given credit on an hour-worked-for-an-hour-earned basis.

(4) Work experience gained prior to the awarding of a baccalaureate degree or the completion of baccalaureate course work shall be considered part-time.

(a) The certified public accountant [supervisor] shall submit a certificate of experience accompanied by a list of hours worked per week;

(b) The hours worked per week shall be calculated by totaling and dividing by two (2) to determine the full-time equivalency.

Section 3. Experience Verification. The certificate of experience shall include the following information verified by an actively licensed [the supervisor] certified public accountant:

(1) The name and address of the employing firm, company, agency, or institution of higher education;

(2) [Experience was performed under the supervision of a certified public accountant as described in Section 1 of this administrative regulation.]

(3) The month, day and year the employment began, and the month, day and year the employment was terminated or the experience was completed;

(4) [A brief description of the applicant's job duties;]

(5) [The applicant's working titles during employment; and]

(6) The signature of the verifying [supervising] certified public accountant which attests to the truth and accuracy of the statements made regarding the applicant's experience.

Section 4. Documentation and Verification of Applicant Experience. [(1) A certified public accountant who signs a certificate of experience shall maintain supporting documentation of the applicant's experience until the applicant is granted a certificate.]

(2) A false or misleading statement made by a certified public accountant on a certificate of experience shall constitute a violation of KRS 325.540(1)(h).

(3) Inspection of supporting documentation may be made by the board or its designee upon receipt of the application, prior to its approval.


(2) This material [document] may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy [board office], 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, between 8 [6:00] a.m. to 4:30 p.m. [Monday through Friday].

MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000 at 10 a.m., EDT at the administrative offices of the Board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 2000, five days prior to the meeting, 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for at 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: Susan G. Stopher, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Phone: (502) 595-3037, Fax: (502) 595-4281.

REGULATORY IMPACT ANALYSIS

Agency Contact: Susan G. Stopher

(1) Type and number of entities affected: This effects approximately 250 certificate applicants 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: 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: There is no change in paper or costs.
  2. Second and subsequent years: There is no change in paper or costs.

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
  1. First year: There is no increased costs or savings.
  2. Continuing costs or savings: There are no changes to costs or savings.
  3. Additional factors increasing or decreasing costs: No additional factors effect costs.
(b) Reporting and paperwork requirements: There is no effect on reporting or paperwork.
(4) Assessment of anticipated effect on state and local revenues:
There is no effect on any state revenues.
(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Trust and Agency 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: This is not geographically specific.
(b) Kentucky: There is no effect.
(7) Assessment of alternative methods; reasons why alternatives were rejected: Due to the simplicity of the process, no alternatives were noted.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on health or the environment.
(b) State whether a detrimental effect on environment and public health would result if not implemented: No environmental or public health issue is involved.
(c) If detrimental effect would result, explain detrimental effect: None noted.
(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflicting law exists.
(a) Necessity of proposed regulation if in conflict: There is no other conflicting law.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None noted.
(10) Any additional information or comments: No
(11) TIERING: Is tiering applied? Tiering was not used since it applies effects only CPA applicants.

STATE BOARD OF ACCOUNTANCY
( Amendment )

201 KAR 1:064. Verification of experience for teaching accounting courses.

RELATES TO: KRS 325.261(4) [(2)(b)]
STATUTORY AUTHORITY: KRS 325.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.261 establishes the standards for licensure as a certified public accountant. This administrative regulation describes the experience to be documented when one applies to become a certified public accountant on the basis of college teaching.

Section 1. Definitions. (1) "Accounting course" means a course that contains in the course prefix, or title, the word accounting or some variation.
(2) "One (1) year of teaching accounting" means being employed by an institution of higher education to teach twenty-four (24) semester hours of accounting courses in which the course participants shall receive credit on an official transcript as described in 201 KAR 1:130, Section 1(1).
(3) "Quarter hour" means 66/100ths of a semester hour.

(4) "Verification" means an actively-licensed certified public accountant of this or any state confirming the truth or accuracy of the applicant's accounting or attest teaching experience. "Supervising certified public accountant" means a licensee of any state holding a certificate and active permit to practice who is employed by an institution of higher education and supervises the candidate by performing evaluations. The department chair or dean shall perform or approve the written evaluation.

Section 2. Experience Verification. The verifying [supervising] certified public accountant shall submit a letter indicating the following information:
(1) The name and address of the employing institution of higher education;
(2) A statement that the applicant was supervised by a licensed certified public accountant;
(3) [4] A list of courses taught by the applicant that includes the course title, semester hours awarded to class participants, semester, and year; and
(3) [4] The signature of the verifying [supervising] certified public accountant who [which] attest to the truth and accuracy of the statements made regarding the applicant's experience.

MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000 at 10 a.m., EDT at the administrative offices of the Board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 2000, five days prior to the meeting, 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Susan G. Stopher, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Phone: (502) 595-3097, Fax: (502) 595-4281.

REGULATORY IMPACT ANALYSIS

Agency Contact: Susan G. Stopher
(1) Type and number of entities affected: This regulation affects approximately 1 person every 2 years.

(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: Since any CPA can verify this experience, rather than a CPA who is a department chair, the compliance is eased. No other factor is effected.
  2. Second and subsequent years: The change is the same as the first year.

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
  1. First year: No effect on costs or savings.
  2. Continuing costs or savings: It is the same as the first year.

(3) Additional factors increasing or decreasing costs: There are no
additional factors.
(b) Reporting and paperwork requirements: There is no effect on reporting or paperwork.
(4) Assessment of anticipated effect on state and local revenues: There is no effect on any state revenues.
(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Trust and Agency Funds.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: No comments were received and there is no effect.
(b) Kentucky: No comments were received and there is no effect.
(7) Assessment of alternative methods; reasons why alternatives were rejected: Due to the simplicity of the process, no alternatives were noted.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on health or the environment.
(b) State whether a detrimental effect on environment and public health would result if not implemented: No environmental or public health issue is involved.
(c) If detrimental effect would result, explain detrimental effect: Not noted.
(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: There is no other conflicting law.
(b) If in conflict, effort made to harmonize the proposed administrative regulation with conflicting provisions: None noted.
(10) Any additional information or comments: No additional comments are needed.
(11) TIERING: Is tiering applied? Tiering was not used since only 1 group is noted.

STATE BOARD OF ACCOUNTANCY
(Amendment)

201 KAR 1:065. Individual license renewal and fee [permit fees].

RELATES TO: KRS 325.330[.1994 Ky. Acts ch. 246, sec. 1] STATUTORY AUTHORITY: KRS 325.240 NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.330 establishes the standards for license renewal and fees for certified public accountants. This administrative regulation describes the procedures and fees for a certified public accountant to [apply for] and renew a license [permit to practice public accounting].

Section 1. [Certified Public Accountant Permit] A person seeking to renew his or her license [practice public accounting] shall submit:
(1) Obtain a certificate in accordance with KRS 325.261 and 201 KAR 1:065.
(2) Submit The computer-generated renewal form sent by the board.
(3) [Initial Permit Application] or [Permit Renewal Application] and
(4) Submit A check or money order made payable to the "Kentucky State Board of Accountancy" in the amount of $100; and
(5) Submit an ongoing professional education report as required by 201 KAR 1:100:
(a) Fifty (50) dollars for even numbered certificate holders issued permits in odd numbered years. This permit shall expire on July 1 of the year following the date it was issued;
(b) $100 for even numbered certificate holders issued permits in even numbered years. This permit shall expire on July 1 of the second year following the date it was issued;
(c) Fifty (50) dollars for odd numbered certificate holders issued permits in even numbered years. This permit shall expire on July 1 of the year following the date it was issued;
(d) $100 for odd numbered certificate holders issued permits in odd numbered years. This permit shall expire on July 1 of the second year following the date it was issued]

Section 2. A license shall expire on July 1 of the second year following the date it was issued and shall be subject to renewal as follows:
(1) Even-numbered licenses shall be renewed in even-numbered years; and
(2) Odd-numbered licenses shall be renewed in odd-numbered years.

Section 3. (1) In May of the licensees' renewal year, the board shall send a computer-generated license renewal notice to the licensee at the address on file with the board.
(2) The licensee shall return the renewal form as indicated in Section 1 of this administrative regulation correcting, deleting or adding to the information on file.

Section 4. Incorporation by Reference. (1) Permit Renewal Application (2000) is incorporated by reference. [The following documents are incorporated by reference:
(a) Initial Permit Application (1994); and
(b) Permit Renewal Application (1994)]
(2) This material [These documents] may be inspected, copied, or obtained, subject to applicable copyright laws, at the State Board of Accountancy [board] office, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, between 8 [8:30] a.m. to 4:30 p.m. [Monday through Friday].

MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000, at 10 a.m., EDT at the administrative offices of the Board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 2000, five days prior to the meeting, 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for the 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: Susan G. Stopher, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Phone: (502) 595-3037, Fax: (502) 595-4281.

REGULATORY IMPACT ANALYSIS

Agency Contact: Susan G. Stopher
(1) Type and number of entities affected: The 6,500 certified public accountants licensed in Kentucky.
(2) Direct and indirect costs or savings on the:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public 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 public 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: No changes on these issues. Changes are editorial.
2. Second and subsequent years: No changes on these issues. Changes are editorial.
(3) Effects on the promulgating administrative body:
   (a) Direct and indirect costs or savings: 1. First year: No change on costs or savings.
   2. Continuing costs or savings: No change on costs or savings.
   3. Additional factors increasing or decreasing costs: There are no additional factors noted.
   (b) Reporting and paperwork requirements: Reporting and paperwork requirements are not changed.
   (4) Assessment of anticipated effect on state and local revenues:
   There is no effect on state or local revenues.
   (5) Source of revenue to be used for implementation and enforcement of administrative regulation: Trust and Agency Funds.
   (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
   (a) Geographical area in which administrative regulation will be implemented: No public comments were received. Audit is not geographically sensitive.
   (b) Kentucky: No public comments were received and there is no economic impact.
   (7) Assessment of alternative methods; reasons why alternatives were rejected: This is a basic license renewal process.
   (8) Assessment of expected benefits:
   (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on health or the environment.
   (b) State whether a detrimental effect on environment and public health would result if not implemented: No environmental or public health issue is involved.
   (c) If detrimental effect would result, explain detrimental effect: None noted.
   (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
   (a) Necessity of proposed regulation if in conflict: There is no other conflicting law.
   (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None noted.
   (10) Additional information or comments: No additional comment appears needed.
   (11) TIERING: Is tiering applied? This regulation applies to all certified public accountants. Tiering is not appropriate.

STATE BOARD OF ACCOUNTANCY
(Amendment)

201 KAR 1:081. Firm license [permits-to-practice].


STATUTORY AUTHORITY: KRS 325.240
NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.220 defines peer review. KRS 325.301 establishes the standards for licensure of a certified public accounting firm. KRS 325.380 establishes the standards for certified public accounting firm names and usage. This administrative regulation establishes the procedures for firms to obtain a license to practice as required by KRS 325.301. [Firm permit-to-practice, renewal, and procedure for changes.]

Section 1. Definitions. (1) A "certified public accountant" means a certified public accountant with a current license [permit] to practice issued by a state board of accountancy and is [may be] a shareholder in a professional service corporation or corporation; a partner in a partnership or registered limited liability partnership; [a] or a member of a limited liability company.
   (2) A "nonlicensed owner of the firm" means a person referred to in KRS 325.301(1)(b), [Member—means an individual holding an ownership interest in a limited liability company.]

Section 2. In order to obtain a license to practice, a firm seeking to practice public accounting, except a firm operating as a sole proprietorship, shall submit [initially apply for a permit-to-practice by submitting]:
   (1) A completed "Initial Firm Registration"; and
   (2) A check made payable to the "Kentucky State Board of Accountancy" in the amount of $100 for the initial firm registration fee.

Section 3. A certified public accountant shall:
   (1) Have ultimate responsibility for all services provided by the firm;
   (2) Have ultimate authority over any unit, division, or branch of the firm that performs attest services; and
   (3) Comply with the "Statement on Quality Control Standards", June 2000, issued by the American Institute of Certified Public Accountants Auditing Standards Board, as incorporated by reference.

Section 4. A nonlicensed owner of the firm shall not sell or otherwise transfer any ownership interest in the firm to any person who fails to satisfy the requirements of KRS 325.301(1).

Section 5. (1) A certified public accountant seeking to engage in a regulated activity [practice public accounting] as a sole proprietor shall register the firm by writing a letter to the board stating the firm office address, phone number, and indicating whether he is engaging in a regulated activity [practicing public accounting] on a full-time or part-time basis;
   (2) If he is establishing the firm within thirty (30) days of his individual permit renewal date, he may submit this information when he renews his individual permit to practice.
   (3) A fee shall not be assessed for this registration.

Section 6. [46] In May of the firm's renewal year, the board shall send the firm a computer generated notice containing current firm registration information. The firm CPA manager shall renew the firm license [permit] to practice by submitting:
   (1) The notice with corrections, deletions, or additions as appropriate [to the filed information]; and
   (2) A check made payable to the "Kentucky State Board of Accountancy" in the amount of $100 for the firm license [permit-to-practice renewal fee].

Section 7. [54] The board shall indicate to the firm the expiration date of the firm's permit or license and shall indicate the changes on the firm's registration form submitted by the firm's certifying public accountant [permit-to-practice] changes, he shall indicate the changes on the firm's certified public accountant's renewal form without the consent of the firm. [Firm registration changes] form.

Section 8. [61] (1) Upon the death or retirement of a firm member which is composed of only two (2) certified public accountant owners, the board shall authorize the continuation of the use of the firm name by the surviving certified public accountant owner for a period of time not to exceed two (2) years from the date of the certified public accountant owner's death or retirement.
   (2) The remaining certified public accountant owner shall advise the board in writing of this change within thirty (30) days of its occurrence.

Section 9. [59] The firm name registered with the board shall be the firm name used in all circumstances.

Section 10. [80] (1) The following material is [documents are] incorporated by reference:
   (a) "Initial Firm Registration (2000 [H94])"; [and]
   (b) "Firm Registration Changes (2000)"; and
   (c) "Statement on Quality Control Standards, January (2000) [H94]".

(2) This material [these documents] may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Accountancy [from the board office], 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, between 8 a.m. and 4:30 p.m. [Monday through Friday].
MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000 at 10 a.m., EDT at the administrative offices of the Board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 2000, five days prior to the meeting, 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for at 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: Susan G. Stopher, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Phone: (502) 585-5037, Fax: (502) 585-4281.

REGULATORY IMPACT ANALYSIS

Agency Contact: Susan G. Stopher
(1) Type and number of entities affected: A total of 1,400 CPE firms are affected.
(2) Direct and indirect costs or savings on the:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public 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 public 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: No effect on compliance, reporting, and paperwork requirements and no change in fees except allowing non-licensed persons to be owners in the firm.
2. Second and subsequent years: No effects are noted.
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Direct and indirect costs will not change.
2. Continuing costs or savings: No effect on costs.
3. Additional factors increasing or decreasing costs: No effect on costs.
(b) Reporting and paperwork requirements: This will continue to be the same.
(4) Assessment of anticipated effect on state and local revenues: This revenue is neutral.
(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Trust and Agency Funds.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from changes in administrative regulation:
(a) Geographical area in which administrative regulation will be implemented: No public comments were received.
(b) Kentucky: No public comments were received.
(7) Assessment of alternative methods; reasons why alternatives were rejected: This was based on National Association of State Boards of Accountancy recommendation.
(8) Assessment of expected benefits:
(a) Identity effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on health or the environment.
(b) State whether a detrimental effect on environment and public health would result if not implemented: No environmental or public health issue involved.
(c) If detrimental effect would result, explain detrimental effect: None noted.
(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: There is no other conflicting law.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None noted.
(10) Any additional information or comments: No additional comment appears needed.
(11) TIERING: Is tiering applied? Tiering was not applied. Only one class of certified public accounting firms exist.

STATE BOARD OF ACCOUNTANCY
(Amendment)


RELATES TO: KRS 325.301(9) [F9]
STATUTORY AUTHORITY: KRS 325.240, 325.301(9) [F9]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 325.301(6) establishes certified public accounting firm review standards. This administrative regulation establishes the procedures that a CPA firm must follow to obtain a peer [quality] review.

Section 1. Definitions. "Sponsoring organization" means an entity operating a peer [quality] review program whose standards of review are equivalent to or better than the "Standards for Performing and Reporting on Peer Reviews" of the American Institute of Certified Public Accountants.

Section 2. (1)(a) [Beginning August 1, 1996] The board shall review its records of the quality enhancement program to determine if a firm in the program that performs audits, reviews or compilations has submitted proof that it is enrolled and has completed a peer review program administered by a sponsoring organization for the period covered by the firm's most recent filing with the quality enhancement program.
(b) If proof has not been submitted, a letter shall be issued to the firm advising it that it shall enroll in a peer [quality] review program operated by a sponsoring organization within forty-five (45) days of the date of the letter.
(2) Within twenty-four [24] [eighteen [18]] months of the date of enrollment in the peer [quality] review program conducted by a sponsoring organization, the firm shall submit to the board:
(a) A letter from the sponsoring organization indicating satisfactory completion of a peer [quality] review; or
(b) The peer [Submit the quality] review report.
(3)(a) A sponsoring organization shall report to the board on a semiannual basis the names of the firms enrolled in the peer [quality] review program.
(b) A sponsoring organization shall bear the costs of verifying compliance with the standards for performing peer [quality] reviews.

Section 3. If a firm is not enrolled in an approved peer [quality] review program when it enters into an agreement to perform an audit, review or compilation, it shall not begin work on the engagement [audit] until it has enrolled in an approved peer [quality] review program.

Section 4. Incorporation by Reference. (1) "Standards for Performing and Reporting on Peer Reviews, June 1, 1999 [April 2-4, 1995]" is incorporated by reference.
(2) This material [H] may be inspected, copied, or obtained, subject to applicable copyright laws, at the office of the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regu-
VOLUME 27, NUMBER 2 — AUGUST 1, 2000

REGULATORY IMPACT ANALYSIS

Agency Contact: Susan G. Stopher

(1) Type and number of entities affected: A total of 997 CPA firms are affected.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public 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 public 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: 1/3 of the firms will be required to report each year. Firms not performing audits may be required for the first time at a cost of up to $2,500 every 3 years to undergo a review. No change for firms performing audits.

2. Second and subsequent years: No changes on these issues. Continued with same affect.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year since this replaces a repealed program in 201 KAR 1:068, this reduces paperwork and cost by approximately $14,000. Some internal processing will reduce savings to $10,000.

2. Continuing costs or savings: Continued fiscal impact shall be as outlined in first year.

3. Additional factors increasing or decreasing costs: There are no additional factors noted.

(b) Reporting and paperwork requirements: Focus on only one review process shall reduce confusion and staff explanations.

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

There is no effect on state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Trust and Agency Funds.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received.

(b) Kentucky: No public comments were received and there is no economic impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Elimination of Quality Enhancement Program simplified the process to this.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on health or the environment.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No environmental or public health issue is involved.

(c) If detrimental effect would result, explain detrimental effect: None noted.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposer regulation if in conflict: There is no other contradicting law.

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

(10) Any additional information or comments: No additional comment appears needed.

(11) TIERING: Is tiering applied? Tiering is not applied. All firms shall comply with this requirement if performing the attest function.

JUSTICE CABINET

Department of Corrections
Division of Adult Institutions

(AMendment)


RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.500, 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 of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Kentucky State Penitentiary.

Section 1. (1)(a) Kentucky State Penitentiary policies and procedures, July 12, 2000 [September 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, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Kentucky State Penitentiary policies and procedures include:

KSP 01-02-01 Public Information and Media Communications
KSP 020000-15 Legal Assistance
KSP 02-01-01 Inmate Commissary Program (Amended 7/12/00)
KSP 02-08-01 Inventory Records and Control
KSP 02-11-01 Requisition and Purchase of Supplies and Equipment (Amended 7/12/00)
KSP 02-12-01 Inmate Personal Funds (Amended 7/12/00)
KSP 05-02-01 Management Information Systems
KSP 06-01-01 Inmate Records (Amended 7/12/00)
KSP 10-02-01 Special Management Units: Assignment, Classification Review and Release
KSP 10-02-05 Special Security Unit
KSP 10-04-01 Special Needs Inmates
KSP 11-03-01 Therapeutic Diets
KSP 11-05-01 Food Services Inspection
KSP 120000-11 Religious Services - Staffing
KSP 120000-18 Religious Services - Religious Programming
KSP 13-01-01 Pharmacy Procedures
KSP 13-02-01 Health Services
KSP 13-02-02 Organization of Medical Services
KSP 13-02-03 Continuity of Care
KSP 13-02-04 Levels of Care and Staff Training
KSP 13-02-05 Consultations
KSP 13-02-08 Health Records
KSP 13-02-09 Psychiatric and Psychological Services
KSP 13-02-11 Psychological and Psychiatric Treatment Upon Release
KSP 13-02-12 Dental Services for Special Management Units
KSP 13-02-13 Optometric Services
KSP 13-05-02 Informec Consent

- 591 -
DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney
APPROVED BY AGENCY: July 11, 2000
FILED WITH LRC: July 14, 2000 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 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 August 14, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack T. Damron or Tameka Biggs, Staff Attorneys, Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky. 40602-2400, Phone (502) 564-2024, Fax (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tameka Biggs, Staff Attorney

(1) Provide a brief summary of:
(a) What this administrative regulation does: 1. This regulation incorporates by reference the policies and procedures governing the operation of the Kentucky State Penitentiary; 2. Regarding the rights and responsibilities of Kentucky State Penitentiary employees and the inmate population.
(b) The necessity of this administrative regulation: To conform to the requirements of KR 196.035 and 197.020. 2. (c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs every aspect of the operations of the Kentucky State Penitentiary.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendments shall bring Kentucky State Penitentiary in compliance with ACA Standards, show compliance with CPP, and show actual practice of the institution.
(b) The necessity of the amendment to this administrative regulation: To conform to the requirement of KRS 196.035 and 197.020.
(c) How the amendment conforms to the content of the authorizing statutes: It permits the commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of Kentucky State Penitentiary.

(3) Type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 31 employees of the correctional institutions, 817 inmates, and all visitors to state correctional institutions.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment:

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None.
(b) On a continuing basis: None.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds budgeted for this 1998-2000 biennium.

(7) Provide an assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance (Amendment)

806 KAR 15:040. Licensing, reporting, and general requirements for viatical settlement providers and brokers.


NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.15-700(2) and 304.15-720 provide that the commissioner shall promulgate administrative regulations to provide for the licensing of viatical settlement providers and brokers, the termination or revocation of the license, and the implementation of KRS 304.15-700 through 304.15-720. 2000 Ky. Acts ch. 472 created new requirements for licensing and reporting of viatical brokers and providers which necessitate amending these administrative regulations.

Section 1. Definitions. (1) "Insured" means the person covered under the policy being considered for viaticalization.

(2) "Insurer" means the entity or insurance company issuing the
life insurance policy of the insured, or its assign.

(3) "License" means a license issued to a viatical settlement provider or viatical settlement broker.

(4) "Patient-identifying information" means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, Social Security number, or other information that is likely to lead to the identification of the insured.

(5) "Viatical settlement broker" is defined in KRS 304.15-020(4).

(6) "Viatical settlement contract" is defined in KRS 304.15-020(5).

(7) "Viatical settlement provider" is defined in KRS 304.15-020(6).

(8) "Viator" is defined in KRS 304.15-020(7).

(9) "Independent third-party trustee" is defined in 2000 Ky. Acts Chapter 472(218).

(10) "Related provider trust" is defined in 2000 Ky. Acts Chapter 472(219).

(11) "Business entity" means any entity listed in KRS 304.1-020 other than an individual.

(12) "Solicitation" means offers or advertises the availability of viatical settlements, or negotiates, offers or attempts to negotiate viatical settlements between a viator and one (1) or more viatical settlement providers.

Section 2. Viatical Settlement Contract and Form Approval. (1) Any person using a viatical settlement contract or other form related to the viatical settlement contract or solicitation of the viatical settlement contract in this state shall submit the contract or other form related to the viatical settlement contract or solicitation of the viatical settlement contract to the commissioner for approval or disapproval.

(2) Each contract submitted to the commissioner for approval shall:

(a) Be written in nontechnical, readily understandable language, utilizing words of common usage;

(b) Specifically state the identity of the parties;

(c) Clearly provide space for including the amount of the proceeds payable to the viator; and

(d) Provide that the contract is to be governed under the laws of the Commonwealth of Kentucky, and that the courts of the Commonwealth of Kentucky shall be the exclusive forum for any judicial remedies sought by either party.

(3) Each contract or viatical form submitted for approval shall:

(a) Be accompanied by the filing fee prescribed set forth at KRS 304.4-010;

(b) Have a form number in the lower left corner;

(c) Have a minimum forty (40) Flash score for readability;

(d) Be printed in at least ten (10) point type and

(e) Disclosures required by KRS 304.15-710 shall be in at least twelve (12) point type.

The commissioner may review any previously approved viatical settlement contract for compliance with the Act and this administrative regulation.

(4) [44] If the commissioner disapproves any proposed viatical settlement contract or related viatical form, or withdraws approval of any viatical settlement contract or related viatical form, the person submitting the contract or form for approval may request a hearing pursuant to KRS 304.2-310(2)(b). If the hearing is requested and held, the burden of proof shall be upon the proponent of the proposed contract or form.

Section 3. Viatical Settlement Broker License. (1) An individual[; partnership; corporation] or business [other] entity acting as a viatical settlement broker shall obtain a viatical settlement broker license from the commissioner.

(2) Each viatical settlement broker license shall be in effect for a period of two (2) years and shall be renewable upon submission to the commissioner of the nonrefundable fee established by this administrative regulation, [a new application and the nonrefundable fee established by this administrative regulation]

(3) Each individual applicant for initial licensure after July 14, 2000 shall have completed the initial training prescribed in subsection (7)(e) and (f) of this section. No business entity applicant for initial licensure after July 14, 2000 shall be issued a license until each individual required to be licensed within the business entity meets the requirements for initial licensure as of July 14, 2000.

(4) A viatical settlement broker licensed in accordance with this section shall not perform a service other than solicitation of a viatical settlement.

(5) [46] Each viatical settlement broker license issued on or before December 31, 2000 shall be renewed on or before March 31, 2001, and each odd year thereafter. Each license shall terminate, unless renewed. All individual applicants for renewal shall have completed the continuing education requirements prescribed by subsection (6) of this section prior to July 1, 2001, and every odd year thereafter.

(6) Each viatical settlement broker shall complete twenty-four (24) hours of department approved continuing education during each licensed period. The continuing education hours must be a minimum of:

(a) Ten (10) hours in life insurance;

(b) Six (6) hours in viatical; and

(c) Two (2) hours in ethics.

All hours may be credited towards continuing education requirements for both viatical brokers and insurance licensees.

(7) [69] Each individual applicant for licensure as a viatical settlement broker shall:

(a) Be at least twenty-one (21) years of age;

(b) Have successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state; and

(c) Provide a statement attesting as to whether or not any disciplinary action has resulted in any suspension, revocation, fine, show cause order, cease and desist order, or other regulatory action taken by any state or federal agency whether or not the applicant is licensed by that state or agency; and

(d) Provide proof of financial responsibility as set forth in 2000 Ky. Acts ch. 472, sec. 2(4);

(e) Complete the forty (40) hours viatical prelicensing training program;

(f) Pass the fifty (50) question viatical examination with a seventy (70) percent minimum score; and

(g) Provide a list of all states in which the viatical settlement broker is licensed.

(8) [Provide a statement as to whether or not any disciplinary action has resulted in any suspension, revocation, fine, show cause order, cease and desist order, or other regulatory action taken by any state or federal agency whether or not the applicant is licensed by that state or agency;]

(9) A business entity [firm or corporation] applying for licensure as a viatical settlement broker shall meet the following requirements:

(a) Each individual, including every [if a firm or other unincorporated entity, each] general partner of a partnership, [or other individual] to act as a viatical settlement broker for the business entity [firm] under the business entity's [firm's] business shall:

(1) Be listed in the business entity's application [Meet the requirements for individual licensure as specified in subsection (4) of this section]; and

2. Be licensed as an individual viatical settlement broker in accordance with subsection (7) of this section;

(b) Meet financial responsibility standards as set forth in 2000 Ky. Acts ch. 472, sec. 2(4), [if a corporation, each individual authorized by the corporation to act as a viatical settlement broker for the corporation under the corporation's license shall]:

(1) Be listed by the corporation in its application;

2. Meet the requirements for individual licensure as specified in subsection (4) of this section; and

3. Be licensed as an individual viatical settlement broker;

(9) [Provide a business entity [firm, partnership, or corporation] applying for licensure or renewal as a viatical settlement broker shall attach to the application for licensure the following documentation, if applicable:

(a) Articles of Incorporation;

(b) Partnership agreement; [and]

(c) Certificate of authority from the Kentucky Secretary of State;

(d) Any agreements with viatical providers currently in force or in force during the previous license period;

(e) A statement attesting as to whether or not any disciplinary action has resulted in any suspension, revocation, fine, show cause order, cease and desist order, or other regulatory action taken by any state or federal agency whether or not the applicant is licensed by that state or agency;

(f) Proof of financial responsibility as set forth in 2000 Ky. Acts Ch. 472, sec. 2(4);]
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(g) A listing of all officers, titles, addresses, Social Security numbers, and Kentucky Department of Insurance license numbers; and

(h) A list of all states in which the viatical settlement broker is licensed.

(10) (f) Each application for initial licensure [or renewal] shall be made on Form VS-1 (VSB) which is incorporated by reference into this administrative regulation.

(11) (f) Each application for licensure and renewal of license shall be accompanied by a nonrefundable fee in the appropriate amount as follows:

(a) $2500 if the applicant is an individual;
(b) $750 if the applicant is a business entity [corporation or firm].

(12) The licensed business entity viatical settlement broker shall notify the Department of Insurance in writing within thirty (30) days of any change to the individuals authorized to act under the business entity’s license. The licensed business entity or licensed individual viatical settlement broker shall notify the Department of Insurance in writing within thirty (30) days of any disciplinary action taken by any state or federal regulatory body against the broker.

Section 4. Viatical Settlement Provider License. (1) An individual, partnership, corporation, or business other entity acting as a viatical settlement provider shall obtain a license from the commissioner.

(2) Each viatical settlement provider license shall be in effect for a period of two (2) years and renewable upon submission to the commissioner of the nonrefundable fee established by this administrative regulation, [a new application and the nonrefundable fee established by this administrative regulation]

(3) A viatical settlement provider licensed in accordance with this section shall not perform a service other than provision of a viatical settlement.

(a) Each viatical settlement provider license issued on or before December 31, 2000, shall be renewed on or before March 31, 2001, and each odd year thereafter. Each license shall terminate unless renewed.

(b) Each individual applicant for licensure as a viatical settlement provider shall:

(a) Be at least twenty-one (21) years of age;
(b) Have successfully attained a general education level equivalent to high school graduation from an accredited high school in this state;
(c) Provide a statement attesting as to whether or not any disciplinary action has resulted in any suspension, revocation, fine, show cause order, cease and desist order, or other regulatory action taken by any state or federal agency whether or not the applicant is licensed by that state or agency;
(d) Provide proof of financial responsibility as set forth in 2000 Ky. Acts ch. 472, sec. 2(4);
(e) Provide a list of all states in which the viatical settlement provider is licensed;
(f) Provide an agreement with at least one (1) independent third-party trustee; and
(g) Provide a copy of the trust agreement with any related provider trust to be used.

(4) A business entity [firm or corporation], applying for licensure as a viatical settlement provider shall meet the following requirements:

(a) Each individual, including every [if a firm or other unincorporated entity, each] general partner of a partnership, or other individual(s) to act for the business entity [firm] under the license shall;

1. Be listed in the business entity’s application; and
2. Meet the requirements for individual licensure as specified in subsection (5) of this section.

(b) Maintain financial responsibility as set forth in 2000 Ky. Acts ch. 472, sec. 2(4), meet the requirements for individual licensure as specified in subsection (4) of this section; and

(c) Be listed in the business entity’s application; and
1. Meet the requirements for individual licensure as specified in subsection (4) of this section;
2. A business entity [firm, partnership, or corporation] applying for licensure as a viatical settlement provider shall attach to the application for licensure the following documentation, if applicable:

(a) Articles of incorporation;
(b) Partnership agreement; and
(c) Certificate of authority from the Kentucky Secretary of State;
(d) An agreement with at least one (1) independent third party trustee;
(e) Trust agreement with any related provider trust to be used;
(f) A statement attesting as to whether or not any disciplinary action has resulted in any suspension, revocation, fine, show cause order, cease and desist order, or other regulatory action taken by any state or federal agency whether or not the applicant is licensed by that state or agency;
(g) Proof of financial responsibility as set forth in 2000 Ky. Acts ch. 472, sec. 2(4);
(h) A list of all officers, titles, addresses, Social Security numbers, and Kentucky Department of Insurance license numbers; and
(i) A list of all states in which the viatical settlement provider is licensed.

(6) A viatical settlement provider shall acquire and maintain an errors and omissions policy in an amount commensurate with the provider’s exposure.

(9) Each application for initial licensure or renewal shall be made on Form VS-1 [P] which is incorporated by reference into this administrative regulation.

(10) (g) Each application for licensure and renewal of license shall be accompanied by a nonrefundable fee in the appropriate amount as follows:

(a) $500 if the applicant is an individual;
(b) $1500 if the applicant is a business entity [corporation or firm].

(11) The licensed business entity viatical settlement provider shall notify the Department of Insurance in writing within thirty (30) days of any change to the individuals authorized to act under the business entity’s license. The licensed business entity or licensed individual viatical settlement provider shall notify the Department of Insurance in writing within thirty (30) days of any disciplinary action taken by any state or federal regulatory body against the provider.

Section 5. Denial, Suspension, or Revocation of License. (1) The commissioner may deny any application for a viatical settlement provider or broker license, [or suspend or revoke a viatical settlement provider or broker license] if, after notice to the licensee and a hearing pursuant to KRS Chapter 45B, the commissioner finds that the applicant or licensee:

(a) [-44-] Has made any material misrepresentation on the application;
(b) [52] Has been adjudicated guilty, either by verdict or plea, or plea agreement, to any felony or to a misdemeanor involving breach of trust, fraud, or theft;
(c) [69] Has been guilty of fraudulent, deceptive, or dishonest practices, as defined in KRS Chapter 304, Subtitle 12;
(d) [-44-] Has had a similar license suspended or revoked in any other jurisdiction;
(e) [69] Has shown to be untrustworthy or incompetent to act as a viatical settlement broker or provider; or

(f) Has violated any provision of the Kentucky Insurance Code, KRS Chapter 304, or this administrative regulation;

(g) Has demonstrated a pattern of unreasonable payments to viators;

(h) Has failed to honor contractual obligations set forth in viatical settlement agreements; or

(i) Has provided materially untrue information to a life insurance company which issued the life insurance policy which is the subject of a viatical settlement contract;

(2) The applicant may request a hearing pursuant to KRS 304.2-310 upon denial of an application.

(3) The commissioner may revoke or suspend the license of any licensee if he finds, after notice and a hearing that the licensee:

(a) Has made any material misrepresentation on the application;
(b) Has been adjudicated guilty, either by verdict or plea, or plea agreement, to any felony or to a misdemeanor involving breach of trust, fraud, or theft;
(c) Has been guilty of fraudulent, deceptive, or dishonest practices, as defined in KRS Chapter 304, Subtitle 12;
(d) Has had a similar license suspended or revoked in any other
jurisdiction;
(e) Has shown to be untruthful or incompetent to act as a
viatical settlement provider or broker;
(f) Has violated any provision of the Kentucky Insurance Code,
KRS Chapter 304, or this administrative regulation;
(g) Has demonstrated a pattern of unreasonable payments to
viators;
(h) Has failed to honor contractual obligations set forth in viatical
settlement agreements;
(i) Has provided materially untrue information to a life insurance
company which issued the life insurance policy which is the subject of a
viatical settlement contract; or
(j) No longer meets the requirements of initial licensure.

Section 6. Other Licenses and Disciplinary Actions. (1) A licensee,
whether an individual or business entity, corporation, or firm, shall
authorize the Department of Insurance, in writing, of any disciplinary action
be taken by any governmental agency, either in this state or in another
jurisdiction, against any other license held by the individual or business
entity, within thirty (30) days of the initiation of the
disciplinary action.
(2) Failure to report the disciplinary action shall be grounds for
suspension, revocation, or other disciplinary action within the discre-
tion of the commissioner.

Section 7. Prohibited Practices. (1) A viatical settlement provider
or broker shall not provide patient-identifying information to any person
or entity except as required to effect a viatical settlement. This sub-
section shall not prevent the licensee from providing the commissioner
information upon request.
(2) If a viatical settlement provider or broker is served with a sub-
poena compelling the provider or broker to produce records containing
patient-identifying information, the viatical settlement provider or broker
shall notify the viator and the insured within five (5) business days
after receiving notice of the subpoena. Notice shall be sufficient if
delivered to the last known address of the provider or broker, and the insured.
This subsection shall not apply to subpoenas from the commissioner.
(3) A viatical settlement provider or broker shall not act also as a broker,
whether entitled to collect a fee directly or indirectly, in the same viat-
cal-settlement contract.
(4) A viatical settlement provider or broker shall not pay any com-
penation or provide anything of value to an insurer's physician, attor-
ney, accountant, or any other person who provides medical, legal, or
financial advice to the consumer as a finder's or referral fee.

Section 8. Designation of Process Agent. A viatical settlement
provider or broker that is licensed pursuant to KRS Chapter 304, is
located in Kentucky, and has a registered office or principal place of
business in the state of Kentucky shall designate the Secretary of
State of the Commonwealth of Kentucky as the agent for the service of
process.

Section 9. [Repealed by the Legislature] Disclosure. (1) Each viatical settlement provider
shall provide a written disclosure form and the "Kentucky Consumer
Guide to Understanding Viatical Settlements", incorporated by reference into this
administrative regulation, to the viator on or before the date that the
viatical settlement contract is signed by each party to the contract.
(2) The disclosure form required by subsection (1) of this section shall
(a) Contain the name of the viatical settlement provider;
(b) Clearly state that the document is a disclosure form;
(c) Contain all disclosure information required by KRS 304.15-710;
(d) Be signed and dated by the applicant; and
(e) Be signed by an authorized representative of the viatical settle-
ment provider.
(4) Within three (3) days of execution of the viatical settlement
agreement the viatical settlement provider shall mail to the viator:
(a) A copy of the executed contract;
(b) A copy of the application for the contract;
(c) A copy of the statement from the licensed attending physician
that the viator is of sound mind and not under undue influence or con-
straint; and
(d) A copy of any medical report obtained by the provider on the viator.
(5) If a policy is vested within the contestable period the informa-
tion in subsection (3) of this section shall also be sent to the insurer
that issued the policy. The insurer shall keep the information confiden-
tial.

Section 9. Reporting Requirement. (1) On or before March 1 of
each calendar year, each viatical settlement provider licensed in
this state shall file a report to the commissioner of all viatical settlement transactions in this state [regarding the provider's viatical business in Kentucky] for the previous calendar year that shall include:
(a) For each viatical settlement during the reporting period:
1. Date of viatical settlement contract;
2. Viator's state of residence at the time of the contract;
3. Mean life expectancy of the insured at time of contract in
   months;
4. Face amount of policy viatcated;
5. Net death benefit viatcated;
6. Estimated total premiums to keep policy in force for mean life
   expectancy;
7. Net amount paid to viator;
8. Source of policy designated as follows:
   a. "V" for viatical settlement broker;
   b. "D" for direct purchase from insurer;
   c. "S" for secondary market or viatical settlement provider;
9. Type of coverage designated as follows:
   a. "I" for individual policies;
   b. "G" for group policies;
10. Whether, at the time of viatical settlement, the policy was
    within the contestable or suicide period, or both;
11. Number of months of contestability remaining at time of settle-
    ment;
12. Primary International Classification of Diseases ("ICD") Diag-
    nosis Code, in numeric format, as defined by the International classification
    of diseases, as published by the U.S. Department of Health and
    Human Services;
13. Type of funding designated as follows:
    a. "L" for licensed financial institution;
    b. "P" for private;
14. Amount of commission, if any, paid to broker.
(b) For each viatical settlement where death has occurred during
the reporting period:
1. Viator's state of residence at the time of the contract;
2. Mean life expectancy of the insured at time of contract in
   months;
3. Net death benefit collected;
4. Total premiums paid to maintain the policy;
5. Net amount paid to viator;
6. Primary ICD Diagnosis Code of illness causing death, in num-
    eric format, as defined by the International classification of diseases,
    as published by the U.S. Department of Health and Human Services;
7. Date of death;
8. Amount of time between date of contract and date of death in
   months;
9. Difference between the number of months that passed between
    the date of contract and the date of death and the mean life expec-
    tancy in months as determined by the reporting company;
10. Name and address of each viatical settlement broker through
    whom the reporting company purchased a policy in this state;
11. Number of policies reviewed and accepted;
12. Number of policies purchased in the secondary market as a
    percentage of total policies purchased;
    Kentucky Acts Chapter 472, section 2 (3);
14. Qualified custodial bank used pursuant to KRS 304.15-715(4).
[The report shall contain the following information:
(a) Aggregate number of viatical applications received;
(b) Aggregate number of viatical applications accepted;
(c) Aggregate number of viatical applications rejected;
(d) Aggregate number of policies viatcated; and
(e) Aggregate face amount of viatcated policies.]
(2) On or before March 1 of each calendar year, a viatical settle-
ment provider licensed in the state of Kentucky shall submit a report to
the commissioner containing the total aggregate face amount of all

- 595 -
policies viaticated during the previous calendar year in each state that the provider is authorized to engage in the viatical business.

(3) On or before March 1 of each calendar year, each viatical settlement broker licensed in this state shall make a report of the number of viatical settlement contracts settled in the previous calendar year in which the viator was a resident of Kentucky. The report shall provide the number of settlements made with each licensed provider.

[Section 11. Notice to Investors. A viatical settlement provider shall provide each investor with written notification that shall state the following:—The Commonwealth of Kentucky does not guarantee any rate or return on investment for any investor to a viatical settlement provider.]

Section 10. [42] General Rules. (1) [Any additional payment on an insurance policy with a double or additional indemnity for accidental death shall be payable to the following:]

(a) The beneficiary last named by the viator prior to entering into the viatical settlement contract;

(b) To any other beneficiary, other than the viatical settlement provider, as the viator may designate;

(c) To the estate of the viator in the absence of a beneficiary.

(2) A viatical settlement provider shall not discriminate in making viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status.

(a) [45] A viatical settlement provider shall not discriminate between a viator with a dependent and a viator with no dependent.

(b) [44] A viatical settlement provider shall not solicits investors who may influence the treatment of the illness of the insured whose coverage would be the subject of the investment.

Section 11. [43] Material Incorporated by Reference. (1) The following materials is incorporated by reference:

(a) [46] Form VSB 111, "Application for License as a Viatical Settlement Broker/Provider (7/2002 Edition)" ([1/11/1999 Edition]); and


(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, Division of Licensing, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary
APPROVED BY AGENCY: July 12, 2000
FILED WITH LRC: July 13, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on August 23, 2000, at 10 a.m. at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at the hearing shall notify this agency in writing by August 18, 2000, five days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Richard Deters, Counsel, Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40602, PH: (502) 564-6032 ext. 239, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact person: Richard Deters

(1) Type and number of entities affected: This administrative regulation will affect all viatical settlement providers and brokers licensed to engage in viatical settlements in the state of Kentucky. Currently there are 9 licensed viatical settlement providers and 24 censored viatical settlement brokers licensed to engage in viatical settlements in this state.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments on this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There will be a direct cost on viatical licensee's for the expenses relating to the new requirements for training. Licensees will be required to pay for classes and an exam for licensure as well as continuing education courses.

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

1. First year following implementation: The existing administrative regulation imposes certain reporting requirements upon viatical providers. The amended administrative regulation will expand the detail required in the report by adopting the NAIC Model for reporting. Many current licensees already use this new format and the cost should be minimal. The amended administrative regulation imposes a new reporting requirement upon viatical settlement broker. This is a simple report and should add minimal cost to the viatical settlement broker, while providing a valuable cross-reference tool for the viatical settlement provider report.

2. Second and subsequent years: The costs will not change from the first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: 1. First year: This administrative regulation will result in a small increase in costs for reviewing the new provider and broker reports, and reviewing filings and applications.

Continuing costs or savings: Continued costs will be the same as the first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.

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

(a) Geographic area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternative was rejected: There have been no alternative methods identified.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would 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 made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied since this regulation applies to all viatical licensees authorized to engage in viatical settlements in the state of Kentucky.
CABINET FOR HEALTH SERVICES  
Office of Certificate of Need  
(Amendment)  


RELATES TO: KRS 216B.010 to 216B.130, 216B.455,  
216B.990(2)  

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 216B.040,  
216B.130  

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040  
authorizes the Cabinet for Health Services to promulgate administr- 
ative regulations. KRS 216B.130 requires the cabinet to annually adjust  
expenditure minimums provided in KRS Chapter 216B. This adminis- 
trative regulation provides for the adjustment of expenditure minimums  
for capital expenditures and major medical equipment for the period  

Section 1. (1) Expenditure minimums or limits provided in KRS  
Chapter 216B and administrative regulations promulgated pursuant  
thereto shall be adjusted for the twelve (12) month period beginning  
July 15, 2000 [1998] and ending July 14, 2001 [1999] to reflect the  
changes in the preceding year.  

(2) The U.S. Department of Commerce, Bureau of Census implicit  
price deflator for construction shall be used in making these adjust- 
ments. The change in the deflator for the twelve (12) month period  
ending January, 1999 [1998] represents a 3.23 [3.18] percent in- 
crease. The change in the deflator for the twelve (12) month period  
ending January, 2000, represents a 3.59 percent increase.  

Section 2. The expenditure minimums provided in KRS Chapter  
216B shall be increased for the twelve (12) month period from July 15,  
2000 [1998] to July 14, 2001 [1999] as follows:  

(1) The expenditure minimum of $1,500,000 for capital expendi- 
ture shall be increased to $1,772,224 [1,655,676].  

(2) The expenditure minimum of $1,500,000 for major medical  
equipment shall be increased to $1,772,224 [1,655,676].  

JOHN H. GRAY, Executive Director  
JOHN H. WALKER, Office of Counsel  
JIMMY D. HELTON, Secretary  
APPROVED BY AGENCY: July 12, 2000  
FILED WITH LRC: July 12, 2000 at 10 a.m.  

PUBLIC HEARING: A public hearing on this administrative regu- 
lation shall be held on August 21, 2000 at 9 a.m. in the Health Serv- 
ices Auditorium, Health Services Building, First Floor, 275 East Main  
Street, Frankfort, Kentucky. Individuals interested in attending this  
hearing shall notify this agency in writing by August 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 ad- 
ministrative 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 pro- 
posed administrative regulation: Selina B. Riley, Cabinet Regulation  
Coordinator, Cabinet for Health Services, Office of the Counsel, 275  
East Main Street - 4WC, Frankfort, Kentucky 40621, (502) 564-7906  
(502) 564-7573 (Fax).  

REGULATORY IMPACT ANALYSIS  

Agency Contact Person: John Gray, Executive Director  
(1) Type and number of entities affected: All applicants for and  
holders of certificates of need.  
(2) Direct and indirect cost or savings to those affected:  
(a) Cost of living and employment in the geographical area in  
which the administrative regulation will be implemented, to the extent  
available from the public comment received: No public comments  
were received on this issue.  
(b) Cost of doing business in the geographical areas in which the  
administrative regulation will be implemented, to the extent available  
from the public comment received: No public comments were received  
on this issue.  
(c) Compliance, reporting, and paperwork requirements, including  
factors increasing or decreasing costs (note any effects upon competi- 

tion) for the:  
1. First year following implementation: This administrative regu- 
lation maintains the compliance, reporting and paperwork requirements  
contained in 900 KAR 6:030.  
2. Second and subsequent years: Same.  
(d) Effects on the promulgating administrative body:  
(3) Direct and indirect cost or savings:  
(1) First year: None  
(2) Continuing cost of savings: None  
3. Additional factors increasing or decreasing costs: None  
(4) Assessment of anticipated effect on state and local revenues:  
No anticipated effect on state or local revenues.  
(5) Source of revenue to be used for implementation and en- 
forcement of administrative regulation: Funds have already been  
budgeted for the operation of the certificate of need process. The  
agency also collects fees for the filing of applications.  
(6) To the extent available from the public comments received, the  
economic impact, including effects of economic activities arising from  
administrative regulation, on:  
(a) Geographical areas in which administrative regulation will be  
implemented: No public comments were received on this issue.  
(b) Kentucky: No public comments were received on this issue.  
(7) Assessment of alternative methods; reasons why alternatives  
were rejected: No alternatives are available because the certificate of  
need process is mandated by statute (KRS Chapter 216B).  

(8) Assessment of expected benefits:  
(a) Identify effects on public health and environmental welfare of  
the geographical area in which implemented and on Kentucky: The  
Certificate of need process was established by the Kentucky General  
Assembly to help contain health care costs in order that the citizens of  
the Commonwealth might enjoy cost-effective health care.  
(b) State whether a detrimental effect on environment and public  
health would result if not implemented:  
A detrimental effect on public health will result if this administrative  
regulation is not implemented.  
(c) If detrimental effect would result, explain detrimental effect:  
The statutory mandate that the certificate of need expenditure mini- 
mums be updated annually will not be met.  
(9) Identify any statute, administrative regulation or governmental  
policy which may be in conflict, overlapping, or duplication: None  
(a) Necessity of proposed regulation if in conflict: N/A  
(b) If in conflict, was adequate attempt made to resolve the conflict?  
Yes  
(10) Additional information or comments: None  
(11) TIERING: Is tiering applied? No. This administrative regu- 
lation applies equally to all health services and health facilities in the  
Commonwealth.  

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, the certificate of need administrative regulation relates  
to licensed health services provided by local government, including but  
not limited to home health and ambulance services.  
2. State whether this administrative regulation will affect the local  
government or only a part or division of the local government. If local  
government provides licensure of public health services, this administrative  
regulation will affect that part of local government that provides such  
services.  
3. State the aspect or service of local government to which this  
administrative regulation relates. That part of local government that  
provides licensed health care services.  
4. How does this administrative regulation affect the local govern- 
ment or any service it provides? By setting forth the expenditure mini- 
mums or limits for capital expenditures and major medical equipment  
as provided in KRS Chapter 216B.  

- 597 -
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

CABINET FOR HEALTH SERVICES
Office of Certificate of Need
(Amendment)


RELATES TO: KRS 216B.010 to 216B.130, 216B.455, 216B.590, HB 452, 502

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 216B.040

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is required by statute to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary. This administrative regulation establishes requirements for the orderly administration of the Certificate of Need Program.

Section 1. Definitions. (1) "Administrative escalation" means an approval from the cabinet to increase the capital expenditure authorized on a previously issued certificate of need.
(2) "Cabinet" means the Cabinet for Health Services.
(3) "Certificate of Need Newsletter" means the monthly newsletter published by the cabinet regarding certificate of need matters.
(4) "Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include independent living units, nursing facility care, and either assisted living units or personal care beds. A continuing care retirement community may establish one (1) bed at the nursing facility level of care for every four (4) independent living units, assisted living units, or personal care beds that it operates.
(5) "Days" means calendar days.
(6) "Division of Licensing and Regulation" means the Cabinet for Health Services, Office of the Inspector General, Division of Licensing and Regulation.
(7) "Emergency circumstances" means situations that pose an imminent threat to the life, health, or safety of a citizen of the Commonwealth.

(8) "Formal review" means the review of applications for certificate of need which are reviewed within ninety (90) days from the date of receipt as provided by KRS 216B.062(1) and which are reviewed for compliance with the review criteria set forth at KRS 216B.040 and Section 6 of this administrative regulation.
(9) "Improvement" means change or addition to the premises of an existing facility that enhances its ability to deliver the services that it is authorized to offer under its existing license or an approved certificate of need.
(10) "Industrial ambulance service" means a Class I specialized provider licensed by the cabinet to serve the employees, customers, or patrons of a business, race track, recreational facility or similar organization excluding a health care facility.
(11) "Intermediate care beds" means nursing home beds, intermediate care beds, skilled nursing beds, nursing facility beds, personal care beds, and Alzheimer nursing home (disease-facility) beds.
(12) "Nonsubstantive review" means an expedited review of an application for certificate of need which has been granted nonsubstantive review status pursuant to the provisions of KRS 216B.085 and this administrative regulation.
(13) "Owner" means a person as defined in KRS 216B.015(16) who is applying for the certificate of need and will become the owner of the proposed health service or facility.
(14) "Proposed service area" means the geographic area in which the applicant proposes to serve.
(15) "Public information channels" means the Office of Communications in the Cabinet for Health Services.
(16) "Public notice" means notice given through:
(a) Public information channels; or
(b) The cabinet's Certificate of Need Newsletter.

Section 2. Letter of Intent. (1) The Certificate of Need Letter of Intent (Form #1) shall be filed with the cabinet by all applicants for a certificate of need. This shall:
(a) Include those applicants requesting nonsubstantive review under the provisions of Section 8 of this administrative regulation.
(b) Not include those applicants requesting nonsubstantive review under the provisions of KRS 216B.095(a) through (e).
(2) Upon receipt of a letter of intent, the cabinet shall provide the sender with written acknowledgment of receipt of the letter and shall publish notice of such receipt in the next published certificate of need newsletter.
(3) An application for a certificate of need shall not be processed until such time as the letter of intent has been on file with the cabinet for thirty (30) days.

Section 3. Certificate of Need Application. (1) An applicant for a certificate of need shall file an application with the cabinet on the appropriate Certificate of Need Application (forms SA, SB or SC).
(2) When filing an application for certificate of need manually, the applicant shall file an original and one (1) copy of the appropriate certificate of need application, together with the prescribed fee set forth in 900 KAR 6:020 with the cabinet on or before the deadlines established by Section 3 of this administrative regulation.
(3) Formal or nonsubstantive review of an application for a certificate of need shall not begin until the application has been deemed complete by the cabinet.
(4) The cabinet shall not deem an application complete unless:
(a) The applicant has provided the cabinet with all of the information necessary to complete the application; or
(b) The applicant has declined to submit the requested information and has requested that its application be reviewed as submitted.
(5) Once an application has been declared complete, the applicant shall not submit additional information regarding the application unless the information is introduced at a public hearing.
(6) Once an application has been declared complete, it shall not be amended to:
(a) Increase the scope of the project;
(b) Increase the amount of the capital expenditure;
(c) Expand the size of the proposed service area;
(d) Change the location of the health facility or health service; or
(e) Change the owner, unless the application involves a licensed health facility and a change of ownership with appropriate notice has occurred after the application was submitted.
(7) An application that has been declared complete may be amended at a public hearing to:
(a) Decrease the scope of the project;
(b) Decrease the amount of the capital expenditure; or
(c) Decrease the proposed service area.
(8) Applicants who have had proposals for certificates of need approved under the nonsubstantive review provisions of Section 8 of this administrative regulation may request the cabinet to change the specific location to be designated on the certificate of need if:
(a) The location is within the county listed on the certificate of need application; and
(b) The applicant files a written request with the cabinet within thirty (30) days of the date of approval. A request shall include the reason why the change is necessary.
(9) If an application is not filed with the cabinet within one (1) year of the date of the filing of a letter of intent, the letter of intent shall expire, and the applicant shall file a new letter of intent at least thirty (30) days prior to submitting an application.
(10) If an application is withdrawn, the applicant shall file a new letter of intent at least thirty (30) days prior to resubmitting an application.
(11) An application that is not declared complete within a year from the date that it is filed shall expire and shall not be placed on public notice or reviewed for approval.

Section 4. Timetable for Submission of Applications. (1) The cabinet's timetable for giving public notice for applications deemed complete for both formal review and for applications granted nonsubstantive review status pursuant to KRS 216B.095(3)(f) and Section 8 of this administrative regulation shall be as follows:
(a) Public notice for organ transplantation, magnetic resonance
imaging, lithotripter, megavoltage radiation equipment, cardiac catheterization, open heart surgery, and new technological developments shall be given on the third Thursday of the following months:
1. January; and
2. July.
(b) Public notice for hospice and home health agencies shall be given on the third Thursday of the following months:
1. February; and
2. August.
(c) Public notice for ground ambulance providers, mobile services and rehabilitation agencies, shall be given on the third Thursday of the following months:
1. March; and
2. September.
(d) Public notice for day health care programs and personal care beds shall be given on the third Thursday of the following months:
1. April; and
2. October.
(e) Public notice for hospital, psychiatric, comprehensive physical rehabilitation, chemical dependency facilities, ambulatory care centers, freestanding ambulatory surgical centers, and birthing centers shall be given on the third Thursday of the following months:
1. May; and
2. November.
(f) Public notice for long-term care beds shall be given on the third Thursday of June.
(g) Public notice for intermediate care beds for mental retardation and developmentally disabled facilities and psychiatric residential treatment facilities (PRTF) shall be given on the third Thursday of the following months:
1. June; and
2. December.
(h) A proposal not included in paragraphs (a) through (g) of this subsection shall be placed in the cycle that the cabinet determines to be most appropriate.
(2) In order to have an application deemed complete and placed on public notice, an application shall be filed with the cabinet at least fifty (50) days prior to the date of the desired public notice.
(3) Applications filed prior to the effective date of the amended administrative regulation may be place on public notice according to the Timetable for Submission of Applications in the administrative regulation in effect at the time the application was filed.
Section 5. Certificate of Need Review. (1) Prior to being reviewed for the approval or denial of a certificate of need, all applications for certificate of need shall be reviewed for completeness pursuant to Section 6 of this administrative regulation.
(2) Unless granted nonsubstantive review status, an application for a certificate of need shall be reviewed for approval or denial of the certificate of need according to the formal review criteria set forth at Section 7 of this administrative regulation.
(3) If granted nonsubstantive review status under Section 8 of this administrative regulation, an application for a certificate of need shall be reviewed for approval or denial of the certificate of need according to the nonsubstantive review criteria set forth at Section 8 of this administrative regulation.
Section 6. Completeness Review. (1) Fifteen (15) days after prior to the deadline for filing (deeming an application in complete for the next appropriate batching cycle, the cabinet shall conduct an initial completeness review to determine whether the application is complete for applications for both formal review and nonsubstantive review granted pursuant to Section 8 of this administrative regulation. Applications granted nonsubstantive review status pursuant to KRS 216B.095(3)(a) through (e) shall be reviewed within fifteen (15) days of receipt.
(2) If the cabinet finds that the application for formal review is complete, the cabinet shall:
(a) Notify the applicant in writing that the application has been deemed complete and that review of the application for approval or denial of a certificate of need shall begin upon public notice being given; and
(b) Give public notice in the next appropriate certificate of need newsletter that review of the application for approval or denial of a certificate of need has begun.
(3) If the cabinet finds that the application for nonsubstantive review is complete, the cabinet shall notify the applicant in writing that the application has been deemed complete and that review of the application for approval or denial of a certificate of need shall begin upon public notice being given.
(4) A decision to grant or deny nonsubstantive review status shall be made within ten (10) days of the date the applicant is notified that the application has been deemed complete.
(5) The cabinet shall give public notice for applications granted nonsubstantive review status under Section 8 of this administrative regulation in the next appropriate certificate of need newsletter that status has been granted and that review of the application for approval or denial of a certificate of need has begun. Public notice for applications granted nonsubstantive review status according to KRS 216B.095(3)(a) through (e) shall be mailed to affected persons.
(6) A determination that an application is complete shall:
(a) Indicate that the applicant has minimally responded to the necessary items on the application;
(b) Not be determinative of the accuracy of, or weight to be given to, the information contained in the application; and
(c) Not imply that the application has met the review criteria for approval of a certificate of need.
(7) If the cabinet finds that the application is incomplete, the cabinet shall:
(a) Provide the applicant with written notice of the information necessary to complete the application; and
(b) Notify the applicant that the cabinet shall not deem the application complete unless within ten (10) days of the date of the cabinet's request for additional information:
1. The applicant submits the information necessary to complete the application by the date specified in the request; or
2. The applicant requests in writing that the cabinet review its application as submitted.
(8) If, upon the receipt of the additional information, the cabinet finds that the application is complete, the cabinet shall, for applicants proceeding under formal review:
(a) Notify the applicant in writing that:
1. The application for formal review has been deemed complete; and
2. Review of the application for approval or denial of a certificate of need shall begin upon public notice being given; and
(b) Give public notice in the next appropriate certificate of need newsletter that review of the application for approval or denial of a certificate of need has begun.
(9) If, upon the receipt of the additional information requested, the cabinet finds that an application for nonsubstantive review is complete, the cabinet shall:
(a) Notify the applicant in writing that:
1. The application has been deemed complete and that review of the application for approval or denial of a certificate of need shall begin upon public notice being given; and
2. A decision to grant or deny nonsubstantive review status shall be made within ten (10) days of the date that the application was deemed complete; and
(b) Give public notice in the next appropriate certificate of need newsletter for applications granted nonsubstantive review status under Section 8 of this administrative regulation, that status has been granted and that review of the application for approval or denial of a certificate of need has begun. Public notice for applications granted nonsubstantive review status according to KRS 216B.095(3)(a) through (e) shall be mailed to affected persons.
(10) If the application, or if the information submitted, is insufficient to complete the application, the cabinet shall:
(a) Request the information necessary to complete the application; and
(b) Inform the applicant that the application shall not be deemed complete and shall not be placed on public notice until:
1. The applicant submits the information necessary to complete the application; or
2. The applicant requests in writing that its application be reviewed as submitted.
(11) Once an application has been deemed complete, an applicant shall not submit additional information to be made part of the
public record unless:
(a) The information is introduced at a hearing; or
(b) in the case of a deferred application, the additional information is submitted at least twenty-five (25) days prior to the date that the deferred application is placed on public notice.

(12) A determination that an application is complete shall:
(a) Indicate that the application is sufficiently complete to be reviewed for approval or disapproval;
(b) Not be determinative of the accuracy of, or weight to be given to, the information contained in the application; and
(c) Not imply that the application has met the review criteria for approval.

Section 7. Considerations for Formal Review. In determining whether to approve or deny a certificate of need, the cabinet's review of applications under formal review shall be limited to the following considerations:
(1) Consistency with plans:
(a) Whether the proposal is consistent with the current State Health Plan established in 902 KAR 17:041.
1. Applications proposing to relocate surgical services from one (1) licensed health facility to a newly established or other health facility and either facility is owned by the existing facility with surgical services shall be considered consistent with the State Health Plan if the existing facility has not added to its complement of operating rooms within twelve (12) months prior to filing the application for relocation and the following conditions are met:
   a. The newly established surgical services are located:
      (i) On the existing facility's licensed premises; or
      (ii) In the same county as the existing health facility and where there are no other licensed providers of surgical services in the county; and
   b. The existing facility with surgical services which relocated the rooms and the newly established surgical service shall not add operating rooms for one (1) year following the date that the newly established surgical services commence operations.
2. An application by an acute care hospital to convert acute care beds to psychiatric beds shall be consistent with the state health plan if the following conditions are met:
   a. The occupancy of acute care beds in the applicant's facility is less than seventy (70) percent in the latest published utilization report;
   b. All of the proposed psychiatric care beds are being converted from licensed acute care beds;
   c. All of the psychiatric care beds will be converted and implemented on site at the applicant's existing licensed acute care facility;
   d. All of the converted psychiatric care beds shall be dedicated exclusively to the treatment of geriatric patients, aged sixty-five (65) or older;
   e. The hospital shall establish distinct admission and discharge criteria for admitting only those patients who have both mental and physical conditions who would be excluded from treatment in a regular adult psychiatric unit;
   f. The staff of the unit shall include a multidisciplinary team of specialists involving psychiatry and internal medicine with specializations in the treatment of geriatrics and nursing personnel specially trained in psychiatric and medical geriatric patient care;
   g. The number of beds to be converted shall be based on the population average sixty-five (65) plus in the counties proposed to be served; and
   h. The applicant agrees in writing not to seek Medicaid certification for the beds converted.
3. Applications proposing to add acute care beds shall be consistent with the State Health Plan if the following conditions are met:
   a. The applicant shall document that utilization at its facility has reached functional capacity. In calculating functional capacity, consideration shall be given to factors such as the mix of private and semiprivate rooms, patient matching limitations such as gender or the need for isolation beds required to address emergency patient needs, and limits created by special purpose acute units, such as obstetrics;
   b. The applicant shall document that the transfer of beds from special purpose acute units is not feasible because occupancy is greater than 65 percent or, if the occupancy is less than sixty-five (65) percent, the transfer of underutilized beds is not sufficient to meet the hospital's total additional acute care bed need;
   c. The applicant shall document an overall acute care occupancy rate in the county of sixty-five (65) percent or greater for the twelve (12) prior months;
   d. The applicant shall document that:
      (i) A new service established in the last eight (8) years has resulted in increasing the number of inpatient days at the hospital by more than three (3) percent; or
      (ii) A three (3) percent or greater increase in inpatient volume has occurred from out-of-state admissions; and
e. The maximum number of acute care beds that may be approved shall be based on a volume projected five (5) years from the CON filing. Approval shall be based on the higher of:
      (i) The applicant's credible forecast of future utilization; or
      (ii) A regression analysis projection of patient day trends over a five (5) year time frame.
4. An application proposing to convert either psychiatric or chemical dependency beds, or both psychiatric and chemical dependency beds, to acute care shall be consistent with the State Health Plan if the application meets the following conditions:
   a. The most recently published data indicates that the occupancy for existing acute care beds for the applicant's facility was sixty-five (65) percent or greater;
   b. The applicant has existing licensed acute care and either psychiatric or chemical dependency beds, or both psychiatric and chemical dependency beds;
   c. All of the proposed acute care beds are being converted from either licensed psychiatric or chemical dependency beds, or both licensed psychiatric and chemical dependency beds;
   d. The occupancy of either psychiatric or chemical dependency beds, or both psychiatric and chemical dependency beds, is less than sixty (60) percent as computed from the latest published data; and
e. The additional acute care beds will be converted and implemented on site at the applicant's existing licensed acute care facility.
(b) Whether the proposal is consistent with applicable bimonthly budget authorizations and limitations.
(c) Whether the proposal would adversely impact health care costs in the Commonwealth.
(d) In determining whether an application is consistent with the State Health Plan, the cabinet shall apply the latest inventories and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the cabinet's decision.
(e) For twenty-four (24) months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or in part, in the same county as the closed health facility. Such applicants shall be processed under formal review but shall not have to show consistency with the State Health Plan.
(2) Need.
(a) Whether the applicant has identified a need for the proposal in the geographic area defined in the application.
(b) Whether the applicant has demonstrated that it is able to meet the need identified in the geographic area defined in the application.
(3) Accessibility. Whether the health facility or health service proposed in the application will be accessible in terms of timeliness, amount, duration, and personnel sufficient to provide the services proposed.
(4) Interrelationships and linkages. Whether the proposal shall serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, and whether the proposal is accompanied by assurance of effort to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system.
(5) Costs, economic feasibility, and resource availability.
(a) Whether it is economically feasible for the applicant to implement and operate the proposal.
(b) If applicable, whether the cost of alternative ways of meeting the need identified in the geographic area defined in the application would be a more effective and economical use of resources.
(6) Quality of services. Whether the applicant is prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements established by the cabinet.
(b) Whether the applicant has the ability to comply with applicable licensure requirements. The fact that there is not an applicable licensure category shall not constitute grounds for disapproving an application.

Section 8. Nonsubstantive Review. (1) In addition to the projects specified in KRS 2168.095(3)(a) through (e), the cabinet may grant nonsubstantive review status to an application for which a certificate of need is required in circumstances wherein:

(a) The proposal involves the establishment or expansion of a health facility or health service for which there are no standards or review criteria in the State Health Plan; or
(b) The proposal involves the establishment or expansion of an ambulatory surgery center by an ambulatory surgery center that was existing and operating by July 15, 1997, if the ambulatory surgery center was initially established as a private office or clinics of physicians.

(2) If an application is denied nonsubstantive review status, the application shall automatically be placed in the formal review process.

(3) If an application is granted nonsubstantive review status, notice of the decision to grant nonsubstantive review status shall be given to the applicant and all known affected persons.

(4) If an application is granted nonsubstantive review status, any affected person other than the applicant may request a hearing by filing a request for a hearing within ten (10) days of the notice of the decision to conduct nonsubstantive review. The provisions of Section 16 of this administrative regulation shall govern the conduct of all nonsubstantive review hearings.

(5) If an application for certificate of need is granted nonsubstantive review status, there shall be a presumption that the facility, or service is needed and applications granted nonsubstantive review status shall not be reviewed for consistency with the State Health Plan. The cabinet shall approve applications for certificate of need that have been granted nonsubstantive review status, unless the presumption of need is rebutted by clear and convincing evidence that there is not a need for the proposed facility or service in the geographic area defined in the application.

(6) The cabinet shall approve or disapprove an application which has been granted nonsubstantive review status within thirty-five (35) days of the date that notice is given that nonsubstantive review status has been granted.

(7) If a certificate of need is denied following nonsubstantive review, the applicant may:

(a) Request that the cabinet reconsider its decision pursuant to KRS 2168.090 and Section 17 of this administrative regulation;
(b) Request that the application be placed in the next cycle of the formal review process; or
(c) Seek judicial review pursuant to KRS 2168.115.

Section 9. Notice of Decision. (1) The cabinet shall notify the applicant and any party to the proceeding of the final action on a certificate of need application.

(2) Notification of approval shall be in writing and shall include:

(a) Verification that the review criteria for approval have been met;
(b) Specification of any terms or conditions limiting any certificate of need approval, including limitations regarding certain services or patients. This specification shall be listed on the facility or service's certificate of need and license;
(c) Notice of appeal rights; and
(d) The amount of capital expenditure authorized, where applicable.

(3) Written notification of disapproval shall include:

(a) The reason for the disapproval; and
(b) Notice of appeal rights.

(4) An application for certificate of need that is disapproved shall not be refiled for a period of twelve (12) months from the original date of filing, absent a showing of a significant change in circumstances.

Section 10. Deferral of an Application. (1) An applicant may defer review of an application by notifying the cabinet in writing of its intent to defer review.

(a) If the application has been granted nonsubstantive review status, the notice to defer shall be filed no later than five (5) days prior to the date that the decision is due on the application unless a hearing has been scheduled. If a hearing has been scheduled, the notice to defer shall be filed no later than six (6) days prior to the date of the hearing.

(b) If the application is being reviewed under formal review, the notice to defer shall be filed no later than ten (10) days prior to the date that the decision is due on the application unless a hearing has been scheduled. If a hearing has been scheduled, the notice to defer shall be filed eight (8) days prior to the date of the hearing.

(c) If a hearing has been scheduled, the applicant shall also notify all parties to the proceedings in writing of the applicant's intent to defer the application.

(2) If deferral is requested, the application shall be deferred to the next regular batching cycle and shall be placed on public notice pursuant to the timetables set forth in Section 3 of this administrative regulation.

(3) If an application is deferred, an applicant may update its application by providing additional information to the cabinet at least twenty-five (25) days prior to the date that the deferred application is placed on public notice.

(4) In order for a hearing to be held on a deferred application, a hearing shall be requested by either the applicant or an affected person within:

(a) Ten (10) days of the deferred application being placed on public notice if the application has been granted nonsubstantive review status; or
(b) Fifteen (15) days of the deferred application being placed on public notice if the application is being reviewed under the provision of formal review.

(5) An application shall not be deferred more than one (1) time unless the applicant can document that state statute, administrative regulation, State Health Plan or the cabinet's utilization statistics affecting the application have changed in the applicant's favor. An application shall not be deferred more than twice.

Section 11. Withdrawal of an Application. (1) An applicant may withdraw an application for certificate of need prior to the entry of a decision to deny or approve the application by notifying the cabinet in writing of the decision to withdraw the application.

(2) If a hearing has been scheduled or held on the application, the applicant shall also notify all parties to the proceedings in writing of the applicant's decision to withdraw the application.

Section 12. Emergency Circumstances. (1) If an emergency circumstance arises, a person may proceed to alleviate the emergency without first obtaining a certificate of need if:

(a) The person is licensed or becomes licensed under the appropriate licensure regulation by the cabinet to provide the service necessary to alleviate the emergency; and
(b) The cabinet is notified in writing within five (5) days after the commencement of the service required to alleviate the emergency.

(2) The notice to the cabinet shall contain the following information:

(a) A detailed description of the emergency;
(b) The steps taken to alleviate the emergency;
(c) The location or geographic area where the emergency service is being provided; and
(d) If applicable, the name and addresses of the person to whom emergency services are being provided.

(3) If the provision of service to meet the emergency circumstance is required to continue beyond thirty (30) days from the date that the notice is filed with the cabinet, the person providing the emergency service shall file an application for a certificate of need for the next appropriate public notice pursuant to Section 4 of this administrative regulation.

(4) The person providing the emergency service may continue to alleviate the emergency circumstances until the emergency ceases to exist or the cabinet issues a final decision to approve or disapprove the application for certificate of need.

Section 13. Transfers of Certificates of Need. (1) Certificates of need issued to an existing facility for purposes other than replacement of the facility may be transferred to the new owner of the facility if the change of ownership occurs prior to implementation of the project for which the certificate of need was issued.
1. Instruct the parties to:
   a. Formulate and submit a list of genuine contested issues to be decided at the hearing;
   b. Raise and address issues that can be decided before the hearing;
   c. Formulate and submit stipulations to facts, laws, and other matters;
   2. Prescribe the manner and extent of the participation of the parties or persons who shall participate;
   3. Rule on any pending motions for discovery or subpoenas; or
   4. Schedule dates for the submission of prefiled testimony, further preliminary conferences, and submission of briefs and documents.

(7) At least five (5) days prior to the scheduled date of any non-substantive review hearings and at least seven (7) days prior to the scheduled date of all other hearings, all persons wishing to participate as a party to the proceedings shall file an original and one (1) copy of the following for each affected application with the cabinet and serve copies on all other known parties to the proceedings:
   a. Notice of Appearance, Form #3;
   b. Witness List, Form #4; and
   c. Exhibit List, Form #5 and attached exhibits.

(8) If a hearing is requested on an application which has been deferred from a previous cycle and for which a hearing had previously been scheduled, parties shall file a new Notice of Appearance, Form #3, and may incorporate previously filed witness lists (Form #4) and exhibit lists (Form #5) or file amended Forms 4 and 5. Any new party to the hearing must file original forms 3, 4 and 5. All forms must be filed in accordance with subsection (7) of this section.

(9) The hearing officer shall convene the hearing and shall state the purpose and scope of the hearing or the issues upon which evidence shall be heard. All parties appearing at the hearing shall enter an appearance by stating their names and addresses.

(10) (b) Each party shall have the opportunity to:
   a. Present its case;
   b. Make opening statements;
   c. Call and examine witnesses;
   d. Offer documentary evidence into the record;
   e. Make closing statements; and
   f. Cross-examine opposing witnesses on:

   1. Matters covered in direct examination;
   2. At the discretion of the hearing officer, upon other matters relevant to the issues.

(11) (H0) A party that is a corporation shall be represented by an attorney licensed to practice in the Commonwealth of Kentucky.

(12) (H0) The hearing officer may:
   a. Allow testimony or other evidence on issues not previously identified in the preliminary order which may arise during the course of the hearing, including any additional petitions for intervention which may be filed;
   b. Act to exclude irrelevant, immaterial or unduly repetitious evidence; and
   c. Question any party or witness.

(13) (H0) The hearing officer shall not be bound by the Kentucky Rules of Evidence. Relevant hearsay evidence may be allowed, at the discretion of the hearing officer.

(14) (H0) The hearing officer shall have discretion to designate the order of presentation of evidence and the burden of proof as to persuasion.

(15) (H0) Witnesses shall be examined under oath or affirmation.

(16) (H0) Witnesses may, at the discretion of the hearing officer:
   a. Appear through deposition or in person; and
   b. Provide written testimony in accordance with the following:

   1. The written testimony of the witness shall be in the form of questions and answers or a narrative statement;
   2. The witness shall authenticate the document under oath; and
   3. The witness shall be subject to cross-examination.

(17) (H0) The hearing officer may accept documentary evidence in the form of copies of excerpts if:
   a. The original is not readily available;
   b. Upon request, parties are given an opportunity to compare the copy with the original; and
   c. The documents to be considered for acceptance are listed on and attached to the party's Exhibit List (Form #5) and filed with the hearing officer and other parties at least seven (7) working days be-
fore the hearing for formal review applications and five (5) working days for nonsubstantive review applications.

(19) (429) A document shall not be incorporated into the record by reference without the permission of the hearing officer. Any referenced document shall be precisely identified.

(20) (440) The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's special knowledge.

(22) (469) The hearing officer may permit a party to offer or request a party to produce additional evidence or briefs of issues as part of the record within a designated time after the conclusion of the hearing. During this period, the hearing record shall remain open, and the conclusion of the hearing shall occur when the additional information is filed.

(21) (426) In a hearing on an application for a certificate of need, the hearing officer may, upon the agreement of the applicant, continue a hearing beyond the review deadlines established by KRS 216B.06(1) and 216B.05(1).

(22) (469) The cabinet shall forward a copy of the hearing officer's final decision by U.S. mail to each party to the proceedings. The original hearing decision shall be filed in the administrative record maintained by the cabinet.

Section 17. Requests for Reconsideration. (1) In order to be considered, requests for reconsideration shall be filed within fifteen (15) days of the date of the notice of the cabinet's final decision relating to:

(a) Approval or disapproval of an application for a certificate of need;

(b) An advisory opinion entered after a public hearing; or

(c) Revocation of a certificate of need.

(2) A copy of the request for reconsideration shall be served by the requestor on all parties to the proceedings.

(3) A party to the proceedings shall have seven (7) days from the date of service of the request for reconsideration to file a response to the request with the cabinet.

(4) The cabinet shall enter a decision to grant or deny a request for reconsideration within thirty (30) days of the request being filed.

(5) If reconsideration is granted:

(a) A hearing shall be held by the cabinet in accordance with the provisions of Section 16 of this administrative regulation within thirty (30) days of the date of the decision to grant reconsideration; and

(b) A final decision shall be entered by the cabinet no later than thirty (30) days following the conclusion of the hearing.

(6) If reconsideration is granted on the grounds that a public hearing was not held pursuant to KRS 216B.065, the applicant shall have the right to waive the reconsideration hearing if the deficiencies in the application can be adequately corrected by submission of a complete document to be made a part of the record without a hearing.

Section 18. Show Cause Hearings. (1) The cabinet may conduct a show cause hearing on its own initiative or at the request of an affected person, to include hearings requested pursuant to Human of Kentucky v. NKC Hospitals, Ky., 751 S.W.2d 399 (1988), in order to determine whether a person has established or is operating a health facility or health service in violation of the provisions of KRS Chapter 216B or this administrative regulation or is subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(a) In order for a show cause hearing to be held, a request for a show cause hearing submitted by an affected person shall be accompanied by an affidavit or other documentation which demonstrates that there is probable cause to believe that a person:

1. Has established or is operating a health facility or health service in violation of the provisions of KRS Chapter 216B or this administrative regulation;

2. Is subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(b) If a show cause hearing is held, the person being charged shall have the burden of showing cause why that person should not be found to:

1. Have established or to be operating a health facility or health service in violation of the provisions of KRS Chapter 216B or this administrative regulation;

2. Be subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

1. The cabinet shall conduct a show cause hearing based on its own investigation pursuant to an annual licensure inspection or otherwise which reveals a possible violation of the terms or conditions which are a part of a certificate of need approval and license.

(3) The cabinet shall also conduct a show cause hearing regarding terms and conditions which are a part of a certificate of need approval and license at the request of any person.

(4) The show cause hearing regarding the terms and conditions shall determine whether a person is operating a health facility or health service in violation of any terms or conditions which are a part of their certificate of need approval and license.

(5) Show cause hearings shall be conducted in accordance with the provisions of Section 16 of this administrative regulation.

(6) Prior to convening a show cause hearing, the cabinet shall give the person suspected or alleged to be in violation not less than twenty (20) days' notice of its intent to conduct a hearing.

(7) The notice shall advise the person of:

(a) The allegations against him;

(b) Any facts determined to exist which support the existence of the allegation; and

(c) The statute or administrative regulation alleged to have been violated.

(8) A hearing officer shall convene the hearing and shall allow the person to establish through testimony or other evidence any grounds in support of its position that no action should be taken by the cabinet.

(9) Within thirty (30) days of the conclusion of the hearing, the hearing officer shall issue a final decision on the matter.

(10) A copy of the final decision shall be mailed to the person or his legal representative with the original hearing decision filed in the administratively by the cabinet.

(11) If a violation is found to have occurred as a result of a show cause hearing conducted pursuant to subsection (1) of this section, the cabinet shall take action as provided by KRS Chapter 216B.

(12) If the person is found to have violated any of the terms or conditions of any certificate of need approval and license as a result of a show cause hearing conducted pursuant to subsection (2) of this section, the cabinet shall take the following action:

(a) If the person had not previously been found to be in violation of the terms and conditions which were a part of their certificate of need approval and license, the person shall be given a reasonable period of time, not to exceed sixty (60) days after issuance of the cabinet's decision, in which to demonstrate that they have corrected the violation. At the conclusion of this period, the cabinet shall verify that the facility or service is operating in compliance with the terms or conditions of the certificate of need and license.

(b) If the cabinet is unable to verify that the facility or service has corrected the violation in accordance with paragraph (a) of this subsection, or if a person who had previously been found to be in violation of the terms and conditions which were a part of their certificate of need approval and license is found in a subsequent show cause hearing conducted pursuant to subsection (6) of this section to be in violation of the terms and conditions again, the matter shall be referred to the Office of Inspector General for appropriate action.

Section 19. Administrative Escalations. (1) A person shall not obligate a capital expenditure in excess of the amount authorized by an existing certificate of need unless the person has received an administrative escalation or an additional certificate of need from the cabinet.

(2) Requests for administrative escalations shall be submitted to the cabinet on the Cost Escalation Form, Form #6.

(3) The cabinet shall authorize administrative escalations for funds which have not been obligated and which do not exceed the following limits if there is not a substantial change in the project:

(a) Twenty (20) percent of the capital expenditure authorized on the original certificate of need or $100,000, whichever is greater, if the capital expenditure authorized on the certificate of need is less than $500,000;

(b) Twenty (20) percent of the capital expenditure if the capital expenditure authorized on the certificate of need is $500,000 to $4,999,999;

(c) Ten (10) percent of the amount in excess of $5,000,000, plus $1,000,000, for projects where the capital expenditure authorized on
the certificate of need is $5,000,000 to $24,999,999;
(d) Five (5) percent of the amount in excess of $25,000,000, plus
$3,000,000, where the capital expenditure authorized on the certificate
of need is $25,000,000 to $49,999,999; and
(e) Two (2) percent of the amount in excess of $50,000,000, plus
$4,250,000, where the capital expenditure authorized on the certificate
of need is $50,000,000 or more.
(4) If an administrative escalation is authorized, the certificate of
need holder shall submit any additional certificate of need application
fee required by the increased capital expenditure.
(5) The escalation of capital expenditure in excess of the limits
set forth in subsection (3) of this section shall:
(a) Constitute a substantial change in a project; and
(b) Require a certificate of need pursuant to KRS 216B.061(1)(e).
(6) The unauthorized obligation of a capital expenditure in excess
of the amount authorized on a certificate of need shall be:
(a) Presumed to be a willful violation of KRS Chapter 216B; and
(b) Subject to the penalties set forth at KRS 216B.060(2).

Section 20. Timetables and Standards for Implementation. (1) As
a condition for the issuance of a certificate of need, a holder of a cer-
tificate of need shall submit progress reports on the Certificate of Need
Six (6) Month Progress Report, Form #8, at the six (6) month intervals
specified in this section.
(2) A notice specifying the date each progress report is due shall
be sent to every holder of a certificate of need whose project is not
fully implemented.
(3) The cabinet or its designee shall review a progress report and
shall:
(a) Determine whether the required elements have been com-
pleted; and
(b) If the required elements have not been completed, whether
sufficient reasons for failure to complete have been provided.
(4) A certificate of need shall be deemed complete when:
(a) The project has been approved for licensure or occupancy by
the Division of Licensing and Regulation;
(b) A final cost breakdown has been submitted; and
(c) Documentation that services are being provided to all of the
licensed service area has been submitted.
(5) Until a project is deemed complete by the cabinet, the cabinet
may require:
(a) The submission of additional reports as specified in subsec-
tions (16) through (18) of this section; or
(b) Progress reports in addition to those required at six (6) month
intervals under the provisions of this section.
(6) Except for long-term care bed proposals, a certificate of need
shall not be revoked for failure to complete the items required during a
six (6) month period if the holder of the certificate establishes that
the failure was due to emergency circumstances or other causes
that could not reasonably be anticipated and avoided by the holder,
or were not the result of action or inaction of the holder.
(7) If the cabinet determines that required elements have not been
completed for reasons other than those set forth in subsection (5) of
this section, it shall notify the holder of the certificate of need, in
writing, that it has determined to revoke the certificate of need.
(8) The revocation shall become final thirty (30) days from the
date of notice of revocation, unless the holder requests a hearing
pursuant to KRS 216B.086.
(9) The first progress report for all projects other than long-term
care beds shall include:
(a) Projects for the addition of new services or expansion of exist-
ing services that do not involve construction, renovation or the installa-
tion of equipment plans for implementation of the project;
(b) Projects for the purchase of equipment only: a copy of the
purchase order;
(c) Projects involving the acquisition of real property: evidence of
an option to acquire the site; and
(d) Construction or renovation projects: evidence that schematic
plans have been submitted to the Public Protection and Regulation
Cabinet, Department of Housing, Buildings and Construction and the
Division of Licensing and Regulation.
(10) For projects other than long-term care beds not deemed
complete, a second progress report shall include:
(a) Projects converting beds: documentation that all beds are
licensed;
(b) Projects for addition of new services or expansion of existing
services that do not involve construction, renovation, or the installa-
tion of equipment: documentation of approval for licensure and occupancy
by the Division of Licensing and Regulation or the Emergency Medical
Services Branch; and
(c) Construction or renovation projects: the schedule for project
completion, evidence of preliminary negotiation with a financial
agency, and evidence of preliminary negotiation with contractors.
(11) For projects other than long-term care bed not deemed
complete, a third progress report shall include:
(a) Construction or renovation projects:
1. Copy of deed or lease of land;
2. Documentation of final enforceable financing agreement, where
applicable;
3. Documentation that final plans have been submitted to the
Public Protection and Regulation Cabinet, Department of Housing,
Buildings and Construction and the Division of Licensing and Regula-
ration; and
4. Enforceable contract with a construction contractor.
(b) Projects for purchase of equipment only: evidence of approval
for licensure and occupancy by the Division of Licensing and Regula-
tion.
(12) For projects other than long-term care beds not deemed
complete, a fourth progress report shall include documentation of final
plan approval by the Public Protection and Regulation Cabinet, De-
partment of Housing, Buildings and Construction and the Division of
Licensing and Regulation and evidence that construction has begun.
(13) For projects other than long-term care beds not deemed
complete, a fifth progress report shall include documentation that con-
struction or renovation is progressing according to schedule.
(14) For projects other than long-term care beds not deemed
complete, a sixth progress report shall include documentation that the
project has been approved for licensure or occupancy by the Division of
Licensing and Regulation and, if required, that the appropriate li-
ensure has been approved for the health care service or facility.
(15) For projects other than long-term care beds not deemed
complete after the sixth progress report, the certificate holder shall,
upon request, provide the cabinet or its designee with a written state-
ment showing cause why the certificate should not be revoked. The
cabinet may defer revocation action upon a showing by the certificate
holder that the project shall be completed on a revised schedule. The
cabinet or its designee may require additional progress reports.
(16) For projects involving long-term care beds:
(a) The first progress report shall include:
1. A copy of the deed or lease of land for projects requiring acqui-
sition of real property; and
2. Evidence that final plans have been submitted to the Public
Protection and Regulation Cabinet, Department of Housing, Buildings
and Construction and the Division of Licensing and Regulation.
(b) For projects involving long-term care beds not deemed
complete, a second progress report shall include:
1. For conversion of bed projects, documentation that the beds in
the project are licensed; and
2. For construction projects:
   a. Schedule for project completion with projected dates;
   b. Documentation of final financing;
   c. Documentation of final plan approval by the Public Protection
and Regulation Cabinet, Department of Housing, Buildings and Con-
struction and the Division of Licensing and Regulation; and
   d. Enforceable construction contract.
(17) For projects involving long-term care beds not deemed
complete, a third progress report shall include documentation that con-
struction or renovation is progressing according to the schedule for
project completion.
(18) For projects involving long-term care beds not deemed
complete, a fourth progress report shall include documentation that the
project has been appropriately licensed and approved for occupancy
by the Division of Licensing and Regulation.
(19) The cabinet or its designee may grant no more than three (3)
additional extensions of six (6) months for good cause shown if the
certificate holder of long-term care beds has failed to comply with the
relevant progress report requirements established in this section.
(20) Within six (6) months following licensure of a project for which
a certificate of need has been issued, the certificate holder shall submit documentation that services are being provided to all of the licensed service area. Failure to provide this documentation shall constitute grounds for revocation of the certificate of need and the license for those areas where service is not being provided.

(21) If the project involves a capital expenditure, a final cost breakdown shall be included in the final progress report.

(22) If the Office of Inspector General discovers a violation of terms and conditions listed on a certificate of need and license while it is conducting its annual license inspection, it shall refer this violation for a show cause hearing in accordance with Section 18 of this administrative regulation.

Section 21. Biennial Review. (1) Certificate of need holders may be subject to biennial review to determine whether they are in compliance with the terms as listed on their certificate of need.

(2) Biennial review may be conducted within sixty (60) days of the second anniversary of the final progress report and at twenty-four (24) month intervals thereafter.

(3) The cabinet or its designee shall provide sixty (60) days’ advance written notice to the subject of any biennial review, including the following:

(a) When the biennial review shall be initiated;

(b) Request for information necessary for the review to which the cabinet does not have access;

(c) A deadline for response to the request for information.

(4) If the cabinet finds that any of the terms and conditions of a certificate of need approval and license have been violated, the review of and any sanctions for this violation shall be conducted in accordance with Section 18(2) of this administrative regulation.

Section 22. Advisory Opinions. (1) The cabinet shall issue advisory opinions regarding matters related to certificate of need on its own initiative or upon request from any person.

(2) Requests for advisory opinions shall be filed with the cabinet and shall be accompanied by the Request for Advisory Opinion, Form #7.

(3) In rendering an advisory opinion, a proposal shall be considered to constitute an improvement within the definition of a nonclinically related expenditure exempt from review if the proposed expenditure meets the definition of an improvement contained in Section 1 of this administrative regulation.

(4) The cabinet may require verification of information and request additional documentation at its discretion prior to issuing an advisory opinion.

(5) The cabinet shall issue a written advisory opinion within thirty (30) days of receipt of a completed request for an advisory opinion or of receipt of additional information.

(6) Public notice of the advisory opinion shall be published in the monthly certificate of need newsletter.

(7) An affected person may request a public hearing regarding an advisory opinion in writing within thirty (30) days of the public notice of the advisory opinion.

(8) The public hearing shall be held within forty-five (45) days of the date of the filing of the request and shall be conducted in accordance with the provisions of Section 16 of this administrative regulation.

(9) The cabinet shall enter a final decision regarding the advisory opinion, within forty-five (45) days of the completion of the public hearing.

(10) If a public hearing is not requested, the advisory opinion shall be the final action of the cabinet.

Section 23. Notification of the Addition of a Health Service. (1) Health facilities that make additions to an existing health service for which there are review criteria in the State Health Plan but for which a certificate of need is not required, or add equipment for which there are review criteria in the State Health Plan but for which a certificate of need is not required, shall notify the cabinet that a service or equipment has been added within ten (10) days of addition.

(2) Notice of Addition of a Health Service or Equipment (Form #10) shall be used in making the notification.

Section 24. Acquisition and Relocation of Nonconforming Nursing Facility. (1) Any person proposing to acquire a nursing facility in excess of 300 beds that is not in substantial compliance with 902 KAR 20:310 shall provide a notification of intent to acquire pursuant to KRS 216B.005. Form #9, Acquisition of a Health Facility, Notice of Intent to Acquire, shall be completed and filed.

(2) The nursing facility acquired pursuant to subsection (1) of this section may be relocated to more than one (1) location, if all the beds remain within the county of location of the original facility.

(3) Applications to relocate the nursing facility acquired pursuant to subsection (1) of this section shall be filed pursuant to KRS 216B.005.

(4) Once relocated and licensed, any person proposing to acquire the relocated nursing facilities shall provide notifications of intent to acquire pursuant to KRS 216B.005.

Section 25. Certification of Continuing Care Retirement Community. (1) In order to be certified as a continuing care retirement community, a certificate of compliance shall be obtained from the Office of Certificate of Need.

(2) In order to obtain a certificate of compliance a continuing care retirement community shall complete and file Form #11 thereby certifying that:

(a) All residents shall be sixty (60) years of age or older and shall have a written agreement with the continuing care retirement community;

(b) A continuum of residential living options and support services shall be offered to its residents, to include the number of independent living units, the number of assisted living units, the number of personal care beds, and the number of nursing home beds to be established.

(c) None of the health facilities or health services established by the continuing care retirement community under this section of the administrative regulation shall be disclosed in writing to each of its residents;

(d) No claim for Medicaid reimbursement shall be submitted for any person for any health service established by the continuing care retirement community under this section of the administrative regulation, and that such restriction shall be disclosed in writing to each of its residents;

(e) All residents in nursing home beds shall be assessed using the Health Care Financing Administration approved long-term care resident assessment instrument;

(f) Admissions to continuing care retirement community nursing home beds shall be exclusively limited to on-campus residents;

(g) A resident shall not be admitted to a continuing care retirement community nursing home beds if he or she is not a resident in the continuing care retirement community unless the resident experiences a significant change in health status documented by a physician;

(h) No resident shall be transferred or discharged without thirty (30) days prior written notice to the resident or her guardian;

(i) The continuing care retirement community shall assist each resident upon move-out notice to find appropriate living arrangements;

(j) Written agreements executed by the resident and the continuing care retirement community shall contain provisions for assisting any resident who has received a move-out notice to find appropriate living arrangements;

(k) The continuing care retirement community's nursing home beds shall be licensed prior to the adjournment of the 2002 General Assembly;

(3) Upon request, the continuing care retirement community shall provide the Office of Certificate of Need the payor source for each of its nursing home beds.

(4) Upon request, the continuing care retirement community shall provide the Office of Certificate of Need the number of each type of bed or living unit within the continuing care retirement community.

Section 26. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Letter of Intent (Form #1) (10/12/99);

(b) Certificate of Need Application (Form #2A) (6/15/99);
(c) Certificate of Need Application for Ground Ambulance and Air Ambulance Providers (Form #2B) (6/15/99);
(d) Certificate of Need Application for Change of Location, Replacement, or Cost Escalation (Form #2C) (6/15/99);
(e) Notice of Appearance (Form #3) (6/15/99);
(f) Witness List (Form #4) (9/10/97);
(g) Exhibit List (Form #5) (9/10/97);
(h) Cost Escalation Form (Form #6) (6/15/99);
(i) Request for Advisory Opinion (Form #7) (5/15/99);
(j) Six (6) Month Progress Report (Form #8) (7/15/97);
(k) Acquisition of a Health Facility, Notice of Intent to Acquire (Form #9) (6/15/99); and
(l) Notice of Addition of a Health Service or Equipment (Form #10) (6/15/99);
and
(m) Application for Certificate of Compliance for a Continuing Care Retirement Community (CCRC) (Form #11) (7/15/99).

(2) This material may be inspected, copied, or obtained at the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN H. GRAY, Executive Director
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary
APPROVED July 12, 2000
FILED WITH LRC: July 12, 2000 at 10 a.m.

PEND HHEC: A public hearing on this administrative regulation shall be held on August 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 August 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 cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Selina B. Riley, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counselor, 275 East Main Street - 4WC, Frankfort, Kentucky 40621, (502) 564-7505 (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John Gray, Executive Director
(1) Size and number of entities affected: All applicants for and holders of certificates of need.
(2) Direct and indirect cost or savings to those affected:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received:
(b) No public comments were received on this issue.
(c) 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:
(d) No public comments were received on this issue.
(e) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
1. First year following implementation: There are no additional compliance, reporting or paperwork requirements.
2. Second and subsequent years: Same.
(f) Effects on the promulgating administrative body:
(a) Direct and indirect cost or savings:
1. First year: None
2. Continuing cost or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Cost of processing paperwork required in person applying for certificates of need must complete and file applications.
(c) Person applying for certificates of need must complete and file progress reports.
(d) Assessment of anticipated effect on state and local revenues:

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds have already been budgeted for the operation of the certificate of need process. The agency also collects fees for the filing of applications.
(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented:
(b) Kentucky: No public comments were received on this issue.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives are available because the certificate of need process is mandated by statute (KRS Chapter 216B).
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will enable the Cabinet for Health Services to comply with HB 452 regarding the establishment of continuing care retirement communities and the exemption from certificate of need nursing home beds.
(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:
The Kentucky General Assembly has determined that it is in the public interest to allow continuing care retirement communities (CCRCs) to establish nursing home beds without a certificate of need. If this administrative regulation is not implemented, the intent of the legislature will not be realized.
(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication:
(a) N/A
(b) 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?

CABINET FOR HEALTH SERVICES
Department of Public Health
Division of Epidemiology and Health Planning
(Amendment)

902 KAR 17:041. State Health Plan for facilities and services.
RELATES TO: KRS 216B.010 to 216B.130
STATUTORY AUTHORITY: KRS 194A.030, 194A.052(1), 216B.010, 216B.015(19), 216B.040(2)(a)2a NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.015(19) requires the Cabinet for Health Services to oversee development and annual updating of the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The 2000 [1999] Update to the 1998-2000 State Health Plan shall be used to:
(1) Review a certificate of need application pursuant to KRS 216B.040; and
(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(20)(a) and 216B.051(1)(d).

Section 2. Updating of Inventories and Need Analysis. (1) The cabinet shall update the inventory of licensed or certificate of need approved health services and health facilities and the need analysis established in the State Health Plan on a periodic basis to reflect any changes in inventory or need projections for health services and health facilities. The most current update shall be used in making certificate of need decisions.
(2) Notice of an update shall be published in the cabinet's certificate of need newsletter.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 [40661], Monday through Friday, 8 a.m. to 4:30 p.m.

RICE C. LEACH, Commissioner
JOHN WALKER, Attorney
JIMMY D. HEINTZ, Secretary
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000, at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 14, 2000. If no notice 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 wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments to: Selina Riley, Cabinet Regulation Coordinator, Office for General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Charles Kendall

(1) Type and number of entities affected: KRS 216B.015(18) requires the Cabinet for Health Services to oversee the development and annual updating of the State Health Plan, a critical element of the Certificate of Need process.

(2) Direct and indirect costs or savings to those affected: None

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

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

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

1. First year following implementation: None
2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: None

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

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

(b) Kentucky: None

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

(8) Assessment of expected benefits: None

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

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

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments: None

(11) I HEARING: is tiering applied? No. Tiering was not applied due to the number of facilities and providers contained in the incorporated document.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physical Health
( Amendment)

907 KAR 1:012. Inpatient hospital services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194A.050, 42 CFR 440.10, 42 USC 1396, a, b, d, r-4

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services [Human-Resources] has responsibility to administer the Medicaid Program [d-Medical-Assistance]. KRS 205.520 authorizes [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 inpatient hospital services for which payment shall be made by the Medicaid [Medical-Assistance] Program for a hospital inpatient service [in behalf of] both the medically needy and the medically needy.

Section 1. Prior Authorization. [A] Length of Stay. Inpatient hospital services except for services in an institution for treatment of tuberculosis or mental disorders shall be limited to a maximum of fourteen (14) days per admission, except as shown in Section 2 of this administrative regulation. A recipient may transfer from one (1) hospital to another when the transfer is necessary for the patient to receive medical care which is not available in the first hospital. These transfers and admissions shall begin anew the fourteenth (14) day per admission limitation. The maximum covered inpatient hospital stay that may result shall be a total of twenty-eight (28) days for the two (2) admissions. Each Nonemergency admission shall have prior approval of medical necessity [appropriateness] by the designated peer review organization in order for the admission to be covered under the Medicaid Program [i] this requirement does not apply to [fer] emergency admissions. Weekend stays associated with a Friday or Saturday admission shall not be reimbursed unless an emergency exists.

Section 2. [Exceptions to Length of Stay. The following exceptions are applicable with regard to medically necessary inpatient hospital services provided on or after July 1, 1991:

(1) For infants under the age of one (1), there shall be no limits on length of stay or number of admissions; and

(2) For children under the age of six (6) in a disproportionate share hospital, there shall be no limit on the length of stay or number of admissions:

Section 3. [Covered Admissions. (1) Admissions [for which payment is made] shall be: primary indications for treatment of an acute or chronic illness, injury or impairment, or for maternity care that could not be rendered on an outpatient basis shall be covered.

(2) Admissions relating to only observation or diagnostic purposes shall not be covered.

(3) Cosmetic surgery shall not be covered except as required for prompt repair of accidental injury or for the improvement of the functioning of a malformed or disfigured body member.

Section 3. [Inpatient Hospital Services not covered shall in:

clude: [by the Medical Assistance Program] (1) A service which is [These services which are] not medically necessary to the patient's well-being, such as television, telephone or [and] guest meals; [4]
Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: In-state hospitals (120), out-of-state hospitals (300).

(2) Direct and indirect costs or savings on the:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public 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 public comments were received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for:
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: the fiscal impact for this regulation is included in the companion regulation 907 KAR 1:013E and will be $29.6 million annually. This impact is a result of removing the 14-day limit on inpatient hospital stays.
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Hospitals will need to report costs/charges for days beyond 14.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide
(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Promulgation of this regulation will ensure greater access to medical services from hospitals for Kentuckian's indigent citizenry. It will allow utilization of the limited disproportionate share hospital (DSH) funds, currently being used to cover inpatient hospital stays beyond 14 days, to be used more for indigent care costs. Hospitals will be assured of reimbursement beyond 14 days.
(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 indigent Kentuckians because they would not have benefit of additional 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: None
(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 United States Constitution may be implicated as well as Sections 253 and 2 of the Kentucky Constitution.
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.
STATE BOARD OF ACCOUNTANCY
(Repeater)

201 KAR 1:068. Repeal of 201 KAR 1:068.

RELATES TO: KRS 325.301
STATUTORY AUTHORITY: KRS 325.240
NECESSITY, FUNCTION, AND CONFORMITY: 201 KAR 1:068 is no longer necessary because the Quality Enhancement Program required by KRS 325.301(6), has been repealed.

Section 1. 201 KAR 1:068, Quality Enhancement Program, is hereby repealed.

MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000 at 10 a.m., EDT at the administrative offices of the Board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 2000, five days prior to the meeting 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Susan G. Stopher, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Phone: (502) 595-5037, Fax: (502) 595-4281.

REGULATORY IMPACT ANALYSIS
Agency Contact: Susan G. Stopher
(1) Type and number of entities affected: A total of 972 CPA firms will be affected.
(2) Direct and indirect costs or savings on the:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public 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 public 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: This regulation will eliminate paperwork, compliance, and reporting for each firm every 3 years.
2. Second and subsequent years: The reduction will occur every three years.
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: A total of $17,000 will be saved.
2. Continuing costs or savings: A total of $17,000 will be saved each year.
3. Additional factors increasing or decreasing costs: No additional factors exist.
(b) Reporting and paperwork requirements: Eliminates this extensive paperwork process.
(4) Assessment of anticipated effect on state and local revenues:
There is no effect on state or local revenues will be experienced.
(5) Source of revenue to be used for implementation and enforcement of administrative regulation: By eliminating the program, no revenue will be used.
(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.
(b) Kentucky: No public comments were received.
(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative method is found in KRS 325.302 and 201 KAR 1:160 - Peer reviews.
(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on health or the environment.
(b) State whether a detrimental effect on environment and public health would result if not implemented: No environmental or public health issue is involved.
(c) If detrimental effect would result, explain detrimental effect: None noted.
(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 conflicting law exists.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None noted.
(10) Any additional information or comments: No additional comments appear needed.
(11) TIERING: Is tiering applied? Tiering does not apply, since only 1 type of CPA firm performing attest work exists.

STATE BOARD OF ACCOUNTANCY
(New Administrative Regulation)

201 KAR 1:170 License application under substantial equivalency standards.

RELATES TO: KRS 325.220, 325.280, 325.330
STATUTORY AUTHORITY: KRS 325.240
NECESSITY, FUNCTION AND CONFORMITY: KRS 325.220 defines substantial equivalency. KRS 325.280 establishes the standards to obtain a license under the substantial equivalency standards. KRS 325.330 establishes the standards for renewing a certified public accountant license. This administrative regulation describes the procedures to obtain a license as a certified public accountant under the substantial equivalency standards.

Section 1. Procedure for Determining States with Comparable Licensing Standards. (1) The board shall review the licensing requirements of other states no less than once per calendar year at a regularly scheduled meeting.
(2) This review shall examine the requirements of each state related to examination, experience and education to determine that the requirements are comparable to those in this state.
(3) The board may use information developed by the National Association of State Boards of Accountancy (NASBA) in making this determination.

Section 2. (1) A person who is actively licensed as a certified public accountant in another state may submit the "Application for License as a Kentucky Certified Public Accountant under Substantial Equivalency Standards".
(2) With the application, the person shall include a nonrefundable payment to the "Kentucky State Board of Accountancy" for $100 dollars.
(3) The license shall be in effect upon receipt of the application at the board office.
(4) The license shall expire on July 1 of the second year following
VOLUME 27, NUMBER 2 -- AUGUST 1, 2000

(5) The license may be renewed by complying with 201 KAR 1:065.

Section 3. Incorporation by Reference. (1) "Application for License as a Kentucky Certified Public Accountant under Substantial Equivalency Standards (2000)" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright laws, at the State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. to 4:30 p.m.

MARY R. NIXON, CPA, President
RICHARD C. CARROLL, Assistant Attorney General
APPROVED BY AGENCY: July 13, 2000
FILED WITH LRC: July 13, 2000 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2000 at 10 a.m., EDT at the administrative offices of the Board located at 332 W. Broadway, Suite 310, Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by August 14, 2000, five days prior to the meeting, 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for at 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: Susan G. Stopher, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Phone: (502) 595-3037, Fax: (502) 595-4281.

REGULATORY IMPACT ANALYSIS

Agency Contact: Susan G. Stopher

(1) Type and number of entities affected: Since these are certified public accountants licensed in other states, the numbers are unknown.

(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.

(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.

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

1. First year following implementation: This regulation eases the burden for out of state certified public accountants to be licensed here. It reduces the reciprocal process from a multipage to a 1-page document format.

2. Second and subsequent years: Effect continues as in first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Shall increase staff time to develop materials, answer phone inquiries, and produce explanations.

2. Continuing costs or savings: In future years, it reflects a simpler process than reciprocal licensing and will reduce paperwork and staff time.

3. Additional factors increasing or decreasing costs: Use of internet licensing formats will further reduce time and costs.

(b) Reporting and paperwork requirements: It will be reduced.

(c) Assessment of anticipated effect on state and local revenues: It may increase agency revenue by reducing the registration barrier and encouraging those in other states working here to register.

(d) Source of revenue to be used for implementation and enforcement of administrative regulation: Trust and Agency Funds.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received.

(b) Kentucky: No public comments were received and there is no economic impact.

(7) Assessment of alternative methods: reasons why alternatives were rejected: This method has been endorsed by the National Association of State Boards of Accountancy.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect on health or the environment.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No environmental or public health issue is involved.

(c) If detrimental effect would result, explain detrimental effect: None noted.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: There is no other conflicting law.

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

(10) Any additional information or comments: No additional comment appears needed.

(11) TIERING: Is tiering applied? Tiering is not applied.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality

(11) TIERING: Is tiering applied? Tiering is not applied.


RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120
STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. There is no federal mandate for this administrative regulation. This administrative regulation repeals seven (7) existing administrative regulations in 401 KAR Chapter 50. The provisions of the repealed administrative regulations will be updated, rewritten in plain language format, and promulgated in a new chapter, 401 KAR Chapter 52.

Section 1. The following administrative regulations are hereby repealed:

(1) 401 KAR 50:030, Registration of sources;
(2) 401 KAR 50:031, Regulatory limit on potential to emit;
(3) 401 KAR 50:032, Prohibitory rule for hot-mix asphalt plants;
(4) 401 KAR 50:033, Acid rain phase II application forms;
(5) 401 KAR 50:034, Permit application form;
(6) 401 KAR 50:035, Permits; and
(7) 401 KAR 50:072, Acid rain permit.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) working days prior to the hearing, of their intent to attend. This hearing is
open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Guests for the hearing are encouraged to bring auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis

(1) Type and number of entities affected: This administrative regulation repeals 7 existing administrative regulations in 401 KAR Chapter 50 that are being updated and rewritten to comply with the cabinet's initiative on plain language drafting. The regulations to be repealed are:

401 KAR 50:030 - Registration of sources.
401 KAR 50:031 - Regulatory limit on potential to emit.
401 KAR 50:032 - Prohibitory rule for hot-mix asphalt plants.
401 KAR 50:033 - Acid rain phase II application forms.
401 KAR 50:034 - Permit application form.
401 KAR 50:035 - Permits.
401 KAR 50:072 - Acid rain permits.

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

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact in the geographical area in which it will be implemented.
(b) Kentucky: This administrative regulation will have no economic impact in Kentucky.

(7) Assessment of alternative methods: reasons why alternatives were rejected: The purpose of this administrative regulation is to repeal 7 existing regulations that are being updated and promulgated in a new chapter. There were no alternatives to consider.

(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 public health or the environment as a consequence of this administrative regulation.
(b) State whether a detrimental effect on environment and public health would result if not implemented: There would be no detrimental effect.
(c) If detrimental effect would result, explain detrimental effect: There would be no detrimental effect.

Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict:

The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. Tiering is not applicable to this administrative regulation because it merely repeals existing administrative regulations and thus contains no requirements on the regulated community.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No
2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation does not affect any known unit, part or division of local government.
3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to any known aspect or service of local government.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.
Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)

401 KAR 52:001. Definitions for 401 KAR Chapter 52.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120
STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. There is no federal mandate for this ad-
ministerial regulation. This administrative regulation defines the terms used in 401 KAR Chapter 52. The definitions contained in this administrative regulation that have federal definitions have been clarified and simplified, but are not more stringent or otherwise different than the corresponding federal definitions.

Section 1. Definitions. (1) "Acid Rain Program" means the national program for reducing SO₂ and NOX emissions established under 42 USC 7651 to 7691t (Title IV of the Act) and promulgated at 40 CFR Parts 72 to 78.

(2) "Act" means the Clean Air Act established under 42 USC 7401 to 7671q, as amended by PL 101-549 (November 15, 1990) and PL 102-187 (December 4, 1991).

(3) "Actual emissions" means the quantity of an air pollutant that is physically emitted into the ambient air during a specified time period.

(4) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities that emits or may emit an air contaminant into the outdoor atmosphere.

(5) "Affected source" means a source that includes one (1) or more affected units.

(6) "Affected states" means states that:
   (a) Border Kentucky and whose air quality may be affected by the proposed permit, permit revision, or permit renewal; or
   (b) Are situated within fifty (50) miles of the source requesting the proposed permit action.

(7) "Affected unit" means a unit subject to the Acid Rain Program.

(8) "Air contaminant" is defined in KRS 224.01-010.

(9) "Air pollutant" means air contaminant.

(10) "Air pollution" is defined in KRS 224.01-010.

(11) "Air pollution control equipment" means a mechanism, device or contrivance used to control or prevent air pollution, which is not, aside from air pollution control laws and administrative regulations, vital to production of the normal product of the source or to its normal operation.

(12) "Alternative method" means a method of sampling and analyzing for an air pollutant that is not a reference or equivalent method, but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to produce adequate results for its determination of compliance.

(13) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(14) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive or control measures.

(15) "Enforceable as a practical matter" means a state-origin or federally enforceable requirement or standard that applies to a source.

(16) "Batch mix plant" means a source or affected facility that produces hot mix asphalt by heating and drying the aggregate in a dryer before separating and mixing it with asphalt cement in separate batches.

(17) "Cabinet" is defined in KRS 224.01-010.

(18) "Capital expenditure" means an expenditure for a physical or operational change to an affected facility that:
   (a) Exceeds the product of:
      1. The applicable "annual asset guidelines repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534; and
      2. The affected facility's basis, as defined by 26 USC 1012; and
   (b) Is not reduced by an excluded addition as defined in IRS Publication 534.

(19) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(20) "Conditional major permit" means a permit issued pursuant to 401 KAR 52:030 that limits the potential to emit (PTE) of a source below the major source thresholds for a Title V permit.

(21) "Construction" means fabrication, erection, installation or modification of an air contaminant source.

(22) "Continuous monitoring system" means the total equipment, required under the applicable administrative regulations used to sample, to condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

(23) "Control device" means equipment such as an incinerator or carbon adsorber used to reduce, by destruction or removal, the amount of air pollutants in an air stream prior to discharge to the ambient air.

(24) "Control system" means a combination of one (1) or more capture systems and control devices working in concert to reduce discharges of pollutants to the ambient air.

(25) "Designated representative" means a person authorized by the owners or operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted to the U.S. EPA in accordance with 40 CFR 72.20(b), to represent and legally bind each owner and operator, as a matter of federal law, in all matters pertaining to the Acid Rain Program. In matters relating to the acid rain portion of a Title V permit, the term "responsible official" means the designated representative.

(26) "Draft permit" means the version of a federally enforceable permit, which the cabinet offers for public review and any applicable affected state review.

(27) "Drum mix plant" means a source or affected facility that produces hot mix asphalt by heating, drying, and mixing the aggregate with asphalt cement in one (1) operation.

(28) "Emergency" means a situation arising from a sudden and reasonably unforeseeable event beyond the control of the source which:
   (a) Requires immediate corrective action to restore normal operation;
   (b) Causes the source to exceed a technology-based emission limitation in the permit due to unavoidable increases in emissions attributable to the emergency; and
   (c) Shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

(29) "Emissions fee" means the annual fee assessed to a source as prescribed in 401 KAR 50:008, made effective April 12, 1995.

(30) "Emission unit" means an affected facility, or a part or activity of a source, that emits or has the potential to emit a regulated air pollutant and does not alter the definition of the term "unit" as used in the Acid Rain Program.

(31) "Emission standard" means the numerical expression of quantity per unit of time or other parameter that limits the amount of a regulated air pollutant that a source or emission unit is allowed to emit to the ambient air.

(32) "Enforceable as a practical matter" means the emission or other standards contained in a permit or compliance schedule include:
   (a) Technically accurate emission standards and the portions of the source that are subject to the standards;
   (b) A time period adequate to demonstrate compliance with the standards; and
   (c) The method the source will use to achieve and demonstrate compliance with the standards, including appropriate monitoring, recordkeeping, and reporting.

(33) "Equivalent method" means a method of sampling and analyzing for an air pollutant, which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(34) "Exempt solvent" means an organic compound listed in the definition of volatile organic compound as not participating in atmospheric photochemical reactions.

(35) "Existing source" means a source that is not a new source.

(36) "Federally enforceable permit" means a permit that is submitted for public, affected state if applicable, and U.S. EPA review pursuant to 401 KAR 52:100.

(37) "Federally enforceable requirement" means the items specified in this subsection as they apply to emission units at a source subject to 40 CFR Part 70, including requirements that have been promulgated or approved by the U.S. EPA at the time of permit issuance but which have future-effective compliance dates:
   (a) Standards or requirements in the state implementation plan (SIP) that implement the relevant requirements of the Act, including
revisions to that plan promulgated at 40 CFR Part 52;
(b) Terms or conditions of preconstruction permits issued pursuant to administrative regulations approved or promulgated pursuant to 42 USC 7401 to 7515;
(c) A standard or other requirement promulgated pursuant to 42 USC 7411 or 7429 governing solid waste incinerators;
(d) A standard or other requirement promulgated pursuant to 42 USC 7412;
(e) Standards or requirements of the Acid Rain Program;
(f) Requirements established pursuant to 42 USC 7661(b) or 7414(a)(3) for monitoring and compliance certification;
(g) A national ambient air quality standard or increment or visibility requirement pursuant to 42 USC 7470 to 7492 for temporary sources permitted pursuant to 42 USC 7661(e);
(h) A standard or other requirement for consumer and commercial products adopted pursuant to 42 USC 7511(b); and
(i) A standard or other requirement for tank vessels adopted pursuant to 42 USC 7511(b); and
(j) A standard or other requirement to protect stratospheric ozone adopted pursuant to 42 USC 7671 to 7671q, unless the U.S. EPA determines that those requirements need not be contained in the permit.
(38) "Final permit" means:
(a) For a federally enforceable permit, the version issued by the administrator that has completed all the applicable review procedures of 401 KAR 52:100 and for which a final determination has been made.
(b) For a state-origin permit, the version that meets the applicable provisions of 401 KAR 52:040, and for which a final determination has been made.
(39) "Fixed capital cost" means the capital needed to provide all the depreciable components.
(40) "Fuel" means natural gas, petroleum, coal, wood, or a form of solid, liquid, or gaseous fuel derived from these materials for the purpose of creating useful heat.
(41) "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
(42) "Hazardous air pollutant" or "HAP" means a pollutant listed pursuant to 42 USC 7412(b).
(a) "Hot mix asphalt plant" means a stationary source or portable affected facility that manufactures hot mix asphalt by heating and drying aggregate and mixing it with asphalt cements.
(44) "Hydrocarbon" means an organic compound consisting predominantly of carbon and hydrogen.
(45) "Incineration" means the process of igniting and burning solid, semisolid, liquid, or gaseous combustible wastes.
(46) "Intermittent emissions" means emissions of particulate matter into the open air from a process that operates for less than six (6) consecutive minutes.
(47) "KyEIS" means the Kentucky Emissions Inventory System.
(48) "Major source" means a stationary source or a group of stationary sources that emits or has the potential to emit at or above a major source threshold and:
(a) For HAPs:
1. Is located within a contiguous area; and
2. Is under common control; and
3. Includes all fugitive HAP emissions in determining if the source is major; and
4. Even if the units are in a contiguous area under common control, emissions are not aggregated with emissions from other similar units to determine major source status for:
   a. Oil or gas exploration or production wells and the associated equipment; or
   b. Pipeline compressors or pump stations; and
(b) For regulated air pollutants other than HAPs:
1. Is located on one (1) or more contiguous or adjacent properties; and
2. Is under common control; and
3. Belongs to a single major industrial grouping where:
   a. All of the pollutant emitting activities belong to the same major group (i.e., all have the same two (2) digit code) as described in the 1987 Standard Industrial Classification (SIC) Manual, except that research and development activities shall be treated as belonging to a separate industrial grouping; or
   b. The source is a support facility; and
4. Fugitive emissions are considered in determining if the source is major if it belongs to a category listed in this clause:
   a. Coal cleaning plants (with thermal dryers);
   b. Kaft pulp mills;
   c. Portland cement plants;
   d. Primary zinc smelters;
   e. Iron and steel mills;
   f. Primary aluminum ore reduction plants;
   g. Primary copper smelters;
   h. Municipal incinerators capable of charging more than 250 tons of refuse per day;
   i. Hydrofluoric, sulfuric, or nitric acid plants;
   j. Petroleum refineries;
   k. Lime plants;
   l. Phosphate rock processing plants;
   m. Coke oven batteries;
   n. Sulfur recovery plants;
   o. Carbon black plants (turbine process);
   p. Primary lead smelters;
   q. Fuel conversion plants;
   r. Sintering plants;
   s. Secondary metal production plants;
   t. Chemical process plants;
   u. Fossil-fuel boilers (or a combination thereof) totaling more than 250 million BTU per hour input;
   v. Petroleum storage and transfer units with a total storage capacity of more than 300,000 barrels;
   w. Taconite ore processing plants;
   x. Glass fiber processing plants;
   y. Charcoal production plants;
   z. Fossil-fuel-fired steam electric plants of more than 250 million BTU per hour of heat input; and
   aa. All other stationary source categories subject to a standard promulgated pursuant to 42 USC 7411 or 42 USC 7412 and for which the U.S. EPA has made an affirmative determination pursuant to 42 USC 7602(j).
(49) "Major source threshold" means PTE:
(a) For HAPs:
1. Ten (10) tons per year or more of a single HAP;
2. Twenty-five (25) tons per year or more of combined HAPs; or
3. A lesser quantity that the U.S. EPA establishes in a final rulemaking; or
(b) 100 tons per year or more for regulated air pollutants other than HAPs, except that:
1. For ozone nonattainment areas:
   a. 100 tons per year or more of volatile organic compounds or nitrogen oxides in areas classified as marginal or moderate;
   b. Fifty (50) tons per year or more in areas classified as serious;
   c. Twenty-five (25) tons per year or more in areas classified as severe; or
   d. Ten (10) tons per year or more in areas classified as extreme;
   2. Fifty (50) tons per year or more of carbon monoxide for carbon monoxide nonattainment areas that are classified as serious and in which stationary sources contribute significantly to carbon monoxide levels; or
   3. Seventy (70) tons per year or more of particulate matter (PM_{10}) for PM_{10} nonattainment areas classified as serious.
(50) "Malfunction" means a failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner that is not caused entirely or in part by poor maintenance, careless operation, or other upset condition or equipment breakdown that could have been prevented.
(51) "Marginal nonattainment county" or "marginal nonattainment area" means a county or portion of a county designated marginal nonattainment in 401 KAR 51:010.
(52) "Minor source" means a stationary source that emits and has the potential to emit less than the major source thresholds.
(53) "Moderate nonattainment county" or "moderate nonattainment area" means a county or portion of a county designated moderate nonattainment in 401 KAR 51:010.
(54) "Modification" means a physical change in, or a change in the method of operation of, an affected facility that:
(a) Increases the amount of a regulated air pollutant emitted into the atmosphere by that facility or which results in the emission of a
regulated air pollutant into the atmosphere not previously emitted; and
(b) Is not solely:
1. Maintenance, repair, and replacement that the cabinet determines to be routine for a source category;
2. An increase in production rate of an affected facility, if that increase can be accomplished without a capital expenditure on that facility;
3. An increase in the hours of operation;
4. Use of an alternative fuel or raw material if, prior to the date a standard becomes applicable to that source type, the affected facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility’s construction specifications as amended prior to the change.
5. Conversion to coal required for energy considerations, as specified in 42 USC 7411(a)(6);
6. The addition or use of a system or device whose primary function is the reduction of air pollutants, except if an emission control system is removed or is replaced by a system, which the cabinet determines to be less environmentally beneficial; or
7. The relocation or change in ownership of an existing facility.
(55) “New source” means a source, the construction, reconstruc-
tion, or modification of which commenced on or after the effective date of this administrative regulation irrespective of a change in emission rate.
(56) “Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
(57) “Owner or operator” means a person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.
(58) “Person” means an individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust estate, or other entity.
(59) “Potential to emit” or “PTE” means the maximum capacity of a stationary source to emit a regulated air pollutant given its physical and operational design; where
(a) A physical or operational limitation on the capacity of a source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation is enforceable as a practical matter; and
(b) This definition does not alter or affect the use of this term for other purposes of the Act or the term "capacity factor" as used in the Acid Rain Program.
(60) “Proposed permit” means the version of a permit that the cabinet proposes to issue and submit to the U.S. EPA for forty-five (45) day review period.
(61) “Reconstruction” means the replacement of components of an existing affected facility to the extent that:
(a) The fixed capital cost of the new components exceeds fifty (50) percent of the life of a comparable entirely new affected facility;
(b) The estimated life of the affected facility after the replacement exceeds fifty (50) percent of the life of a comparable entirely new affected facility;
(c) The components being replaced cause or contribute to the emissions from the affected facility; and
(d) It is technologically and economically feasible to meet the applicable requirements in 401 KAR Chapters 50 to 65.
(62) “Reference method” means a method of sampling and analyzing for an air pollutant as prescribed by 40 CFR Part 50, Appendices A to K; Part 60, Appendices A to B; and Part 62, Appendix B.
(63) “Regulated air pollutant” means:
(a) Nitrogen oxides;
(b) Volatile organic compounds;
(c) A pollutant for which a national ambient air quality standard has been promulgated pursuant to 42 USC 7409 (Section 109 of the Act);
(d) A Class I or Class II substance subject to a standard promulgated or established pursuant to 42 USC 7671 to 7671q (Title VI of the Act);
(e) A pollutant, other than the suspended particulates (TSP), subject to a standard promulgated pursuant to 42 USC 7411;
(f) A hazardous air pollutant (HAP) subject to a standard or other requirement established pursuant to 42 USC 7412 that is:
1. Promulgated by the U.S. EPA pursuant to 42 USC 7412(d);
2. Adopted by the cabinet pursuant to 42 USC 7412(g) and (j), and which shall be considered regulated for all sources or categories of sources upon the earlier date of:
(a) Promulgation of the standard or requirement; or
b. Eighteen (18) months after the standard or requirement was scheduled to be promulgated pursuant to 42 USC 7412(e)(9); or
3. A HAP for which the cabinet has made a case-by-case emission limitation determination pursuant to 42 USC 7412(g)(2), and which shall be considered regulated only for the source for which the determination was made.
(54) "Renewal" means the process by which a permit is reissued at the end of its permit term.
(55) “Responsible official” means:
(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of that person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either;
(b) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars); or
2. The delegation of authority to the representative is approved in advance by the cabinet;
(b) For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
2. For a municipal, state, federal, or other public agency, a principal executive officer or ranking elected official. For this administrative regulation, the principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operation of a principal geographic unit of the agency (e.g., a regional administrator of the U.S. EPA);
(d) For the acid rain portion of a permit for an affected source, the designated representative;
(64) “Secondary emissions” means emissions that:
(a) Occur as a result of the construction or operation of a major stationary source or major modification but do not come from the source or modification itself;
(b) Are specific, well defined, and quantifiable and impact the same general area as the source or modification which causes the secondary emissions;
(c) Include emissions from an offsite support facility that would not otherwise be constructed or increase its emissions as a result of the construction or operation of the source or modification; and
(d) Do not include emissions that come directly from a mobile source, including emissions from the tailpipe of a motor vehicle, train, or vessel;
(65) “Section 502(b)(10) changes” means changes that contravene an express permit term and does not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
(66) “Shutdown” means the cessation of an operation.
(67) “Source” means one (1) or more affected facilities contained within a given contiguous property line, which means the property is separable by a public thoroughfare, stream, or other right of way.
(70) “Standard” means an emission standard, a standard of performance, or an ambient air quality standard as promulgated in 401 KAR Chapters 50 to 65, including the emission control requirements necessary to comply with 401 KAR Chapter 51.
(71) “Start-up” means the setting in operation of an affected facility.
(72) “State implementation plan” or “SIP” means the most recently prepared plan or revision required by 42 USC 7410, which has been approved by the U.S. EPA.
(73) “State-origin permit” means a permit that is issued pursuant to 401 KAR 52:040 and is not federally enforceable.
(74) “State-origin requirement” means an applicable requirement contained in 401 KAR Chapters 50 to 65, which is not mandated by the Act and is not federally enforceable.
"Stationary source" means a building, structure, affected facility, or installation that emits or may emit a regulated air pollutant. "Supporting facility" means the stationary source or group of stationary sources that support another source and shall be considered part of the same source regardless of the two (2) digit SIC code for the facility if:

(a) Both are under common control of the same person (or persons under common control);

(b) Both are located on contiguous or adjacent properties; and

(c) At least fifty (50) percent of the source's output is dedicated to the source it supports.

"Synthetic minor permit" means a permit issued pursuant to 401 KAR 52:030 which limits the potential to emit of the source or an affected facility at the source below the major source or major modification thresholds that trigger review pursuant to 401 KAR 51:017 or 401 KAR 51:052.

"Title V permit" means a permit issued pursuant to 401 KAR 52:020 and Kentucky's Part 70 Operating Permit Program approved by the U.S. EPA on November 14, 1995 (60 FR 57186) and made effective on December 14, 1995.

"Title V program" means a state operating permit program approved by the U.S. EPA pursuant to 42 USC 7661 to 7661f (Title V of the Act).

"Total suspended particulate" or "TSP" means particulate matter as measured by the method described in Appendix B of 40 CFR 60.

"tpy" means ton per year.

"U.S. EPA" means the U.S. Environmental Protection Agency.

"Volatile organic compound" or "VOC" means an organic compound that participates in atmospheric photochemical reactions. This includes an organic compound that volatilizes at a temperature less than the following compounds: methanol; ethane; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methylene chloride; 1,1,1-trichloroethane (methyl chloroform); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro-1,2,2-trifluoromethane (CFC-113); dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HFC-123); tetrafluoroethane (HFC-134a); dichlorofluoromethane (HFC-141b); chlorodifluoromethane (HFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HFC-124c); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134a); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-difluoroethane (HFC-152a); perchlorylbenzenotrifluoride (PCBTF); cyclic, branched, or linear completely methylated silicones; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,2,2-tetrafluoroethane; 1,1,1,2-dichloro-2,2-difluoroethylene (HFC-225cb); 1,1,2,3,4,5,5,6-decachlorohexane (HFC3-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoro-2-propanol (HFC-236fa); 1,1,2,2,3,3,3-heptafluoropropane (HFC-227ea); 1,1,1,2,3,3,3-heptafluoropropane (HFC-227ea);

(a) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(b) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations;

(c) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine; or

(d) Other compounds that have negligible photochemical reactivity and which are inadvertently measured by test methods that have been approved by the cabinet and the U.S. EPA.

"Waste oil" means a petroleum based or synthetic oil such as an engine lubricant, engine oil, motor oil, or lubricating oil for use in an internal combustion engine, or a lubricant for motor transmissions, gears, or axles which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FIELD WITH LRC: June 27, 2000 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) workdays prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation.

Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis

(1) Type and number of entities affected: The administrative regulation contains the definitions of terms used in the Kentucky administrative regulations contained in 401 KAR Chapter 52. No entities are directly affected by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. There are no costs or savings associated with this administrative regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. There are no costs or savings associated with this administrative regulation.

(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for:

1. First year following implementation: There are no compliance, reporting, or paperwork requirements in this administrative regulation.

2. Second and subsequent years: There are no compliance, reporting, or paperwork requirements in this administrative regulation.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

4. Assessment of anticipated effect on state and local revenues: This administrative regulation will have no effect on state and local revenues.

5. Source of revenue to be used for implementation and enforcement of administrative regulation: No revenue is necessary to implement this administrative regulation.

6. To the extent available from the public comments received,
to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation establishes requirements for air contaminant sources located in Kentucky that are required to obtain a Title V permit.

Section 1. Applicability. This administrative regulation shall apply to sources required to obtain a Title V permit, including:

(1) Major sources;
(2) Affected sources subject to the Acid Rain Program;
(3) Sources subject to new source review under 401 KAR 51:017 or 401 KAR 51:052; and
(4) Sources that are:
   (a) Subject to a federal standard promulgated under 42 USC 7411 (NSPS) or 42 USC 7412 (NESPAP); and
   (b) Not exempted or deferred from Title V permitting by the U.S. EPA.

Section 2. Exemptions. (1) The following sources shall be exempt from this administrative regulation:

(a) Sources required to be registered under 401 KAR 52:070;
(b) Except as provided in Section 1(4) of this administrative regulation:
   1. Sources permitted under 401 KAR 52:030; and
   2. Minor sources required to be permitted under 401 KAR 52:040; and
(c) Sources subject only to the requirements of 40 CFR 60.530 to 60.539b, Standards of Performance for New Residential Wood Heaters.

(2) The following activities shall be exempt from this administrative regulation:

(a) Vehicles used for the transport of passengers of freight;
(b) Publicly-owned roads;
(c) Asbestos demolition or renovation operations subject only to an applicable requirement in 401 KAR Chapter 58;
(d) Open burning covered under 401 KAR 63:005; and
(e) Activities or emission units contained in the “List of Trivial Activities” which the cabinet shall maintain and make available;
1. On request by contacting the Division for Air Quality, Permit Support Section, phone (502) 573-3382, Email: NREPC.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787;
and

Section 3. General Provisions. (1) Sources subject to this administrative regulation shall:

(a) Not construct, reconstruct, or modify without a permit or permit revision issued under this administrative regulation, except as provided in Sections 13, 14, 15, and 17 of this administrative regulation;
(b) Operate in compliance with a permit issued under this administrative regulation;
(c) Demonstrate compliance with applicable requirements if requested by the cabinet;
(d) Comply with 401 KAR 50:038, Emission fees;
(e) Submit an annual compliance certification pursuant to Section 21 of this administrative regulation;
(f) Apply for a permit renewal pursuant to Section 12 of this administrative regulation; and

(h)1. Allow authorized representatives of the cabinet to enter upon the premises where a source is located or emissions-related activity is conducted, or records are kept, at reasonable times:
   a. To access and copy any records required by the permit;
   b. To inspect any facility, equipment (including air pollution control equipment), practice, or operation; and
   c. To sample or monitor substances or parameters to determine compliance with the permit and all applicable requirements.

2. Reasonable times shall be:
   a. During all hours of operation;
   b. During normal office hours; or
   c. During an emergency.

(2) For permits issued to construct, reconstruct, or modify:

(a) The permit shall become invalid if the permitted action:
   1. is not commenced within eighteen (18) months after the permit
is issued;
2. Begins but is discontinued for a period of eighteen (18) months or more; or
3. Is not completed within eighteen (18) months of the scheduled completion date;
   (b) For phased construction projects, each phase shall commence construction within eighteen (18) months of the projected and approved commencement dates; and
   (c) The cabinet may extend the time periods in this subsection if the source shows good cause.
(3) Sources that construct, reconstruct, or modify shall demonstrate compliance pursuant to 401 KAR 50:055 as follows:
   (a) New or reconstructing sources shall demonstrate compliance with all applicable requirements;
   (b) Modifying sources shall demonstrate compliance with all applicable requirements that:
       1. Become applicable following the modification; or
       2. May be affected as a result of the modification; and
   (c) Sources that have not demonstrated compliance during the prescribed timeframe given in 401 KAR 50:055 shall operate only for purposes of demonstrating compliance unless otherwise authorized by an order of the cabinet.

Section 4. Applying for a Permit, Permit Revision, or Permit Renewal. (1) Complete applications shall be submitted using Forms DEP7007A1 to DD, which is incorporated by reference in 401 KAR 52:050, for the following permit actions:
   (a) Initial permits for new sources;
   (b) The first Title V permit for existing sources;
   (c) Renewal permits; and
   (d) Permit revisions, including administrative permit amendments, minor permit revisions, and significant permit revisions.
(2) A complete application shall contain the information specified in Section 5 of this administrative regulation, except that:
   (a) A compliance plan or schedule (Forms DEP7007AA, BB, and CC) shall not be required for applications to construct a new source;
   (b) Applications for permit revisions shall provide only the information related to the change; and
   (c) Applications for permit renewals shall provide only the information that is new or different from the most recent source-wide permit application.
(3) Sources subject to Section 1(4) of this administrative regulation shall submit a complete application within one (1) year after the U.S. EPA publishes a final rule requiring the source to obtain a Title V permit.
(4) Sources that submit an application with a claim of confidential information shall:
   (a) Authorize the cabinet to submit the information to the U.S. EPA; or
   (b) Submit the information to the cabinet and directly to the U.S. EPA.
(5) Completed application forms shall be submitted to Kentucky Division for Air Quality, Attn: Permit Support Section, 803 Schenkel Lane, Frankfort, Kentucky 40601:
   (a) For initial permits, minor permit revisions, significant permit revisions, and permit renewals, the original plus two (2) copies; and
   (b) For administrative permit amendments, the original only.
(6) The cabinet may request up to seven (7) additional copies of the completed application form if needed for public review.
(7) Forms DEP7007A1 to DD may be obtained:
   (a) By contacting the Kentucky Division for Air Quality, Permit Support Section, 803 Schenkel Lane, Frankfort, Kentucky 40601, phone (502) 573-3382, Email: NREPC.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787; or
   (b) On the Internet at: www.state.ky.us/nrepc/dep/daq/prb/daqapp.htm.

Section 5. Information Required on Application. Applications shall contain:
(1) All the information needed to determine the applicable requirements and emission fees;
(2) The following administrative information:
   (a) Company name and address and, if different, plant name and address;
   (b) Owner's and agent's names and addresses;
   (c) Name, address, and phone number of the plant site manager or contact;
   (d) Description of the source's processes and products; and
   (e) Appropriate SIC Code;
   (3) The following emissions-related information:
       (a) All emissions of regulated air pollutants, except those exempted in Section 2(2) of this administrative regulation;
       (b) All fugitive emissions, listed in the same manner as stack emissions;
       (c) Additional information if needed to verify which requirements are applicable;
       (d) Identification of the applicable requirements for each emissions unit;
       (e) Identification and description of all emission units and emission points in sufficient detail to establish the basis for applicable requirements and emission fees;
       (f) Emission rates in terms necessary to determine compliance with applicable requirements;
       (g) Fuels, fuel use, raw materials, production rates, and schedules to the extent needed to determine emissions;
       (h) Other information required by an applicable requirement, including stack height limitations developed pursuant to 401 KAR 50:042; and
   (i) Calculations on which the information in this paragraph is based;
(4) Citation and description of all applicable requirements, and the applicable test method for determining compliance with each;
(5) An explanation of proposed exemptions to otherwise applicable requirements;
(6) Other information if needed to implement and enforce other applicable requirements or to determine their applicability;
(7) If applicable, information needed to determine the applicable requirements and emission fees, and to define the permit terms and conditions for:
       (a) Each alternate operating scenario; and
       (b) Emissions trading under federally-enforceable emissions caps;
       (8) A compliance plan containing:
           (a) The compliance status for all applicable requirements, including:
               1. For requirements with which the source is in compliance, a statement that the source will continue to comply; and
               2. For requirements with which the source is not in compliance, a narrative description of how the source will achieve compliance;
           (b) A compliance schedule, including:
               1. For applicable requirements that will become effective during the permit term, a statement that the source will comply on a timely basis, unless a more detailed schedule is called for in the applicable requirement; and
               2. For requirements with which the source is not in compliance, remedial measures leading to compliance, including checkpoints and scheduled completion dates;
           (c) For sources required to have a schedule of compliance to remedy a violation or noncompliance, a schedule for submission of certified progress reports no less frequent than every six (6) months;
           (9) A certification of compliance with all applicable requirements by a responsible official;
           (10) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping and reporting requirements, and test methods;
           (11) A schedule for submission of compliance certifications during the permit term, to be submitted annually or more frequently if specified by the cabinet or in an applicable requirement;
           (12) A statement describing the source's compliance status with applicable monitoring, including enhanced monitoring, and compliance certification requirements; and
           (13) Insignificant activities as specified in Section 6 of this administrative regulation.

Section 6. Insignificant Activities. (1) Activities that meet the following conditions shall be classified as insignificant activities:
   (a) The PTE from each activity shall not exceed:
       1. One-half (1/2) tpy of a HAP;
2. One and one-half (1-1/2) tpy of combined HAPs; or
3. Five (5) tpy of a nonhazardous regulated air pollutant;
   (b) The activity shall not involve the incineration of medical waste; and
   (c) The activity shall not be subject to a federally-enforceable requirement, other than generally applicable requirements.
(2) In applications for permits, permit revisions, and permit renewals, sources shall:
   (a) Include descriptions for all insignificant activities;
   (b) Include all applicable requirements for each insignificant activity; and
   (c) Not be required to provide detailed estimates for insignificant activities.
(3) A list of insignificant activities and generally applicable requirements approved by the cabinet shall be maintained and made available upon request by contacting the Division for Air Quality, Permit Support Section, phone (502) 573-3382, Email: NREPC.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787.

Section 7. Duty to Supplement or Correct Application. (1) An applicant who fails to submit relevant facts or who has submitted incorrect information in an application shall, upon discovery of the occurrence, promptly submit the supplementary facts or corrected information.
(2) If new requirements become applicable to a source after the application is submitted, but before a draft permit is issued, the applicant shall promptly provide the supplemental information to the cabinet.
(3) Failure to supplement or correct an application shall be a violation of this administrative regulation and may result in:
   (a) Termination of a permit;
   (b) Revocation and reissuance of a permit;
   (c) Revision of a permit, or
   (d) Denial of a permit.

Section 8. Application Shield. (1) If an existing source submits a timely and complete application for a source-wide permit or permit renewal, the source's failure to have a permit shall not be a violation of this administrative regulation unless the cabinet makes a final determination to deny the permit or permit renewal.
(2) A source's authority to operate shall cease to apply if the source fails to submit additional information requested by the cabinet, by the deadline set by the cabinet, after the completeness determination has been made.

Section 9. Completeness Review and Determination. Applications shall be reviewed by the cabinet for completeness pursuant to Section 2-1 of "Cabinet Provisions and Procedures for Issuing Title V Permits", which is incorporated by reference in Section 25 of this administrative regulation, for:
(1) Initial permits for new sources;
(2) The first Title V permit for existing sources;
(3) Significant permit revisions; and
(4) Permit renewals.

Section 10. Permit Contents. Permits shall contain terms and conditions as provided in Sections 1a to 1c of "Cabinet Provisions and Procedures for Issuing Title V Permits."

Section 11. Permit Shield. (1) Compliance with the conditions of a permit shall be considered compliance with all applicable requirements if:
   (a) The applicable requirements are included and specifically identified in the permit; or
   (b) The cabinet, in reviewing the application, determines that other specifically identified requirements are not applicable to the source, and this determination is stated in the permit.
(2) A permit shall not have a permit shield unless the permit expressly states that a shield exists.
(3) A permit shield shall not protect the owner or operator from enforcement for violating an applicable requirement prior to or at the time of permit issuance.

Section 12. Permit Duration and Renewal. (1) Title V permits issued pursuant to this administrative regulation shall remain in effect for five (5) years, except that permits for municipal waste incinerators shall remain in effect for twelve (12) years and shall be reviewed by the cabinet every five (5) years.
(2) Permits issued under the procedures of Section 2-III of "Cabinet Provisions and Procedures for Issuing Title V Permits" for Title V Permits shall remain in effect until a Title V permit is issued to the source.
(3) A source that is subject to an existing permit, authorization to operate, or order of the cabinet, shall operate in compliance with the existing terms and conditions until a final Title V permit is issued.
(4) An application for a permit renewal shall be submitted at least six (6) months prior to expiration of the current permit.
(5) Expiration of a permit shall terminate the source's authority to operate unless the source has submitted a timely and complete renewal application.
(6) All terms and conditions of the previous permit, including the permit shield, shall remain in effect until the renewal permit has been issued or denied, if:
   (a) The cabinet fails to issue or deny the renewal permit before the expiration of the previous permit; and
   (b) The source has submitted a timely and complete renewal application.
(7) If the cabinet fails to act promptly on a permit renewal, the U.S. EPA may terminate or revoke the permit pursuant to 42 USC 7661d(e).

Section 13. Administrative Permit Amendments. (1) The following permit revisions may be processed as administrative permit amendments:
   (a) Correct typographical errors;
   (b) Change the name, address, or phone number of a person identified in the permit, or make similar administrative changes;
   (c) Change in ownership or operational control;
   (d) Require more frequent monitoring or reporting;
   (e) Add an insignificant activity; and
   (f) Incorporate into a Title V permit the requirements from preconstruction review permits that:
      1. Were processed using procedures equivalent to those in this administrative regulation for a similar permit revision; and
      2. Contained compliance requirements equivalent to those in this administrative regulation.
(2) Sources requesting an administrative permit amendment shall submit the appropriate Forms DEP7007A1 to DD reflecting the desired change and may implement the change immediately upon submission.
(3) For administrative permit amendments in which the owner or person to whom a permit is issued changes, the following information shall be submitted to the cabinet within ten (10) days following the change:
   (a) Administrative Information Form DEP7007A1 showing the names and other information that has changed; and
   (b) If ownership has changed, a signed written agreement specifying the date of transfer of permit responsibility, coverage, and liability.
(4) The cabinet may allow coverage under the permit shield for a preconstruction review permit incorporated as an administrative permit amendment, if the preconstruction review permit meets the relevant requirements for a significant permit revision under this administrative regulation.
(5) Administrative permit amendments for the acid rain portion of a permit shall be governed by regulations promulgated pursuant to 42 USC 7651 to 76510.

Section 14. Minor Permit Revisions. (1) The procedures in this section shall be used for permit revisions that:
   (a) Do not involve a significant change to the permit;
   (b) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
   (c) Do not involve a new or increased emission limit or standard.

- 619 -
(d) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and which the source has assumed to avoid an otherwise applicable requirement, including:
1. A federally enforceable emissions cap assumed to avoid classification as a modification under Title I of the Act; and
2. An alternative emissions limit approved pursuant to 42 USC 7412(l)(5);
(e) Is not a modification under Title I of the Act; and
(f) Is not required to be processed as a significant permit revision.
(2) The procedures in this section may be used for changes involving the use of economic incentives, marketable permits, emissions trading, or similar programs in:
(a) The state implementation plan (SIP); or
(b) A federal requirement.
(3) Sources requesting a minor permit revision shall submit the appropriate Forms DEP7007A1 to DD, including:
(a) A description of the change, and the resulting change in emissions;
(b) New applicable requirements that will apply after the change;
(c) Certification that the change meets the criteria for use of minor permit revision procedures, and a request for their use;
(d) A suggested draft permit showing only the information that is new or different than the existing permit; and
(e) Completed forms for the cabinet to notify the U.S. EPA and affected states.
(4) The source may implement the change immediately upon filing a complete application.
(5) The permit shield shall not extend to minor permit revisions.

Section 15. Group Processing of Minor Permit Revisions. (1) Group processing shall be used only for permit revisions that:
(a) Meet the criteria for minor permit revisions; and
(b) Are collectively below the following thresholds:
1. Ten (10) percent of the emissions allowed in the permit for the emission unit or units affected by the change; and
2. The lesser of twenty (20) percent of the applicable major source threshold or five (5) tpy.
(2) A source with two (2) or more pending minor permit revisions may apply for group processing by submitting:
(a) A written request to use group processing;
(b) A list of pending permit revision applications awaiting group processing, and a determination of whether the sum of all the revisions will equal or exceed a thresholds in this section;
(c) Certification that all the pending revisions meet the criteria for use of group processing procedures;
(d) A list of new requirements that will apply after each revision is made;
(e) A suggested draft permit showing only the information that is new or different than the existing permit;
(f) Certification that the source has notified the U.S. EPA of the proposed permit revision and included a brief description of the change; and
(g) Completed forms for the cabinet to notify the U.S. EPA and affected states.
(3) The source may implement the changes immediately upon filing a complete application.
(4) The permit shield shall not extend to permit revisions eligible for group processing.

Section 16. Significant Permit Revisions. (1) Significant permit revision procedures shall be used for revisions that:
(a) Involve significant changes in the monitoring requirements or a relaxation in the reporting or recordkeeping requirements contained in the permit; or
(b) Do not qualify as administrative permit amendments or minor permit revisions.
(2) Significant permit revisions shall follow the same procedures that are required for initial permits and permit renewals.
(3) The permit shield shall extend to significant permit revisions.

Section 17. Off-Permit and Section 502(b)(10) Changes. (1) A permit revision shall not be required for changes that:
(a) Are neither addressed nor prohibited in the permit; or
(b) Qualify as a change under 42 USC 7661(a)(10).
(2) Sources may make these changes without a permit revision if:
(a) The change does not cause emissions to exceed those allowed in the permit, expressed as an emission rate or total emissions; and
(b) The change is not:
1. A modification under Title I of the Act; or
2. Subject to the acid rain provisions in Title IV of the Act.
(3) A source proposing to make a change pursuant to this section shall notify the cabinet and the U.S. EPA at least seven (7) workdays prior to making the change. The notice shall include:
(a) A description of the change;
(b) The date on which the change will occur;
(c) Any resulting changes in emissions; and
(d) Any permit terms or conditions that will no longer be applicable after the change.
(4) The source shall keep a copy of the notice on file with the permit.
(5) The permit shield shall not extend to changes made under this section.
(6) Changes made under this section shall be incorporated into the permit upon renewal.

Section 18. Reopen or Cause. (1) A permit shall be reopened prior to expiration if:
(a) New requirements become applicable to a source with a remaining permit term of three (3) or more years;
(b) New requirements become applicable to an affected source subject to the Acid Rain Program; or
(c) The cabinet or the U.S. EPA determines that:
1. The permit contains a material mistake or an inaccurate statement was made when establishing the standards, terms or conditions of the permit; or
2. It is necessary to revise or revoke the permit to assure compliance with applicable requirements.
(2) Reopening a permit:
(a) Shall follow the same procedures as initial permits; and
(b) Shall affect only those parts of the permit for which cause to reopen exists.
(3) The source shall submit an application for a permit revision within six (6) months after notification by the cabinet.

Section 19. General Permits. The cabinet may issue a general permit covering similar sources in the same source category.
(1) A general permit shall require compliance with all requirements applicable to other permits and shall identify criteria by which sources may qualify for coverage.
(2) Sources that qualify for a general permit may:
(a) Apply to the cabinet for coverage under the terms of the general permit; or
(b) Apply for an individual permit under this administrative regulation.
(3) An application for a general permit shall include information necessary to determine qualification for, and to assure compliance with, the general permit.
(4) If the cabinet determines that a source does not meet the criteria for a general permit, the application shall be processed as a single-source permit pursuant to this administrative regulation.
(5) The permit shield shall apply to general permits.
(6) If a source applies for and receives a general permit and is later determined not to qualify for the permit's terms and conditions:
(a) The source shall be subject to enforcement action for operating without a permit; and
(b) The permit shield shall not be a defense to this violation.

Section 20. Temporary Replacement Units. The cabinet may authorize the temporary use of an emission unit to replace a similar unit that is taken off-line for maintenance, if the following conditions are met:
(1) The owner or operator shall submit to the cabinet, at least ten (10) days in advance of replacing a unit, the appropriate Forms DEP7007A1 to DD that show:
(a) The size and location of both the original and replacement units; and
(b) Any resulting change in emissions;
(2) The PTE of the replacement unit shall not exceed that of the original unit by more than twenty-five (25) percent of a major source threshold;
(3) The PTE of the replacement unit or the resulting PTE of the source shall not subject the source to a new applicable requirement;
(4) The replacement unit shall comply with all applicable requirements;
(5) Within six (6) months after installing the replacement unit, the owner or operator shall:
   (a) Reinstall the original unit; or
   (b) Submit an application to permit the replacement unit as a permanent change.

Section 21. Compliance Certifications. (1) By January 30 of each year, sources subject to this administrative regulation shall submit an annual compliance certification for all applicable requirements.
(2) The compliance certification shall contain the following information for each term or condition of the permit that is the basis for the certification:
   (a) Identification of the term or condition;
   (b) Compliance status;
   (c) Whether compliance was intermittent or continuous;
   (d) The method used for determining compliance over the reporting period; and
   (e) The method currently used for determining compliance.
(3) Compliance certifications shall be mailed to the Division for Air Quality, Central Files, 803 Schenkel Lane, Frankfort, Kentucky 40601, and a copy sent to the U.S. EPA and to the appropriate Regional Office listed in Section 26 of this administrative regulation.

Section 22. Annual Emissions Certification. An annual emission certification shall be submitted to the cabinet by sources subject to this administrative regulation.
(1) During the first quarter of each calendar year, the cabinet shall survey each source to determine its actual emissions during the preceding calendar year, and the source shall provide and certify the information requested and return the survey to the cabinet by the date indicated in the cover letter.
(2) Each day past the deadline that a source fails to submit the required information shall be a separate violation of this administrative regulation.
(3) If no response is received from a source, the cabinet may estimate its actual emissions based on prior history and other relevant information that is available.
(4) Failure by the cabinet to notify a source shall not relieve the source of its obligation to submit an annual emissions statement.

Section 23. Certification by Responsible Official. A responsible official shall certify that, based on information and belief formed after reasonable inquiry, the statements and information contained in the following documents are true, accurate, and complete:
(1) Applications;
(2) Reports;
(3) Compliance certifications; and
(4) Emissions certifications.

Section 24. Emergency Provision. (1) An emergency shall be an affirmative defense to enforcement actions brought for noncompliance with a technology-based emission standard if:
   (a) The source demonstrates that the incident meets the criteria for an emergency;
   (b) The source took all reasonable steps to minimize excess emissions; and
   (c) The source notified the cabinet as quickly as possible and followed-up with a written report within two (2) workdays after the emergency occurred.
(2) In an enforcement proceeding seeking to establish that an emergency occurred, the burden of proof shall rest with the source.
(3) This provision shall be in addition to any emergency or upset provision contained in an applicable requirement.

Section 25. Public, Affected State, and U.S. EPA Review. All permits, permit renewals, and permit revisions issued under this administrative regulation, other than administrative permit amendments and minor permit revisions, shall be offered for review by the public, affected states, and the U.S. EPA pursuant to 401 KAR 52:100.

   (a) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:
      (a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;
      (b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 280-2067;
      (c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (270) 746-7475;
      (d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 292-6411;
      (e) Frankfort Regional Office, 643 Teton Trail, Suite B, Frankfort, Kentucky, 40601, (502) 564-3358;
      (f) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;
      (g) London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 875-0177;
      (h) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 687-7904; and
      (i) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (270) 895-8468;
   (b) This material may also be obtained:
      (a) By Email request to: NREPC.DEPAirPermits@mail.state.ky.us; or
      (b) On the internet at: www.nsr.state.ky.us/nrepc/dep/dac/pbr.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) workdays prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis
(1) Type and number of entities affected: The proposed administrative regulation provides the permitting requirements and procedures for major sources required to obtain Title V permits pursuant to 42 USC 7661 to 7661f. There are currently about 300 sources in Kentucky that have or will obtain Title V permits in the near future. New sources that meet the applicability determinations of Section 1 of the proposed administrative regulation will be required to obtain Title V permits under its provisions.
(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 during the notice of intent public comment period concerning added costs or savings for the cost of living or employment in the geographical area where this administrative regulation will be implemented, and the cabinet foresees none.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments were received during the notice of intent public comment period concerning added costs or savings for doing business in the geographical area where this administrative regulation will be implemented, and the cabinet foresees none.

(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: From comments received during the notice of intent public comment period, the compliance, reporting, and paperwork requirements should all be less confusing, and therefore less costly. This will occur because the provisions in 401 KAR 50:035, which is being repealed in a separate action (401 KAR 50:071), are being clarified and simplified in the proposed administrative regulation.

2. Second and subsequent years: The first-year benefits will continue in the second and subsequent years.

3. Effects on the promulgating administrative body:
   (a) Direct and indirect costs or savings:

   1. First year: There will be some small savings for the division in the first and subsequent years by reducing the time required to review and issue permits.
   2. Continuing costs or savings: The first-year benefits will continue in subsequent years.

   3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: While the proposed administrative regulation will not change reporting requirements, there will be some reduction in paperwork requirements since the provisions of 401 KAR 50:035, which is being repealed in a separate action (401 KAR 50:071) have been clarified and simplified in the proposed administrative regulation.

(c) Assessment of anticipated effect on state and local revenues: There are no anticipated effects on local and state revenues.

(d) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(e) To the extent available from the public comments received, economic impact, including effects of economic activities arising from administrative regulation, on:
   (a) Geographical area in which administrative regulation will be implemented: No comments were received during the notice of intent public comment period regarding economic impact in the geographical area in which the proposed administrative regulation will be implemented, and the cabinet foresees none.
   (b) Kentucky: No comments were received during the notice of intent public comment period regarding economic impact in Kentucky, and the cabinet foresees none.

7. Assessment of alternative methods; reasons why alternatives were rejected: The cabinet is required under KRS 224.10-100 to prepare and promulgate regulations for the prevention, abatement, and control of air pollution. Furthermore, it is a requirement of the Clean Air Act for these sources to have Title V permits, and the U.S. EPA would issue these permits if the cabinet failed to do so. Therefore, no alternatives to permitting these sources were considered.

8. Assessment of expected benefits:
   (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There will be no appreciable effect on public health and the environment as a result of the proposed administrative regulation.
   (b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on environment and public health would not result.
   (c) If detrimental effect would result, explain detrimental effect: A detrimental effect would not result because, the Clean Air Act requires major sources to have Title V permits, and the U.S. EPA would issue these permits if the cabinet failed to do so.

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

(a) Necessity of proposed administrative regulation if in conflict: The proposed administrative regulation is not in conflict.

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

10. Any additional information or comments: The requirements and procedures in the proposed administrative regulation were previously contained in 401 KAR 50:035, together with the permitting provisions for conditional major, synthetic minor, and minor sources. 401 KAR 50:035 is being repealed in a separate action (401 KAR 50:071). Its provisions are being promulgated in individual administrative regulations for each source type and are being moved to a new chapter of Kentucky Administrative Regulations, Title 401 KAR Chapter 52. Emphasis has been given to separating the permitting requirements for major sources, as well as those for conditional major and synthetic minor sources, from minor sources, with which they have often been confused. In addition, the provisions of this proposal are in agreement with current U.S. EPA guidelines, drafting language has been clarified and simplified to comply with the cabinet's initiative on plain language drafting.

11. TIERING: Is tiering applied? No. The provisions of the proposed administrative regulation apply equally to all sources throughout the Commonwealth that are required to have Title V permits. Therefore, tiering is not applied in the proposed administrative regulation. However tiering is provided in the cabinet's overall air permitting program.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is contained in 40 CFR Part 70 and 42 USC 7661 to 7661f.

2. State compliance standards. The state compliance standards are found at KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires the sources described in Section 1 of the proposed administrative regulation to operate only in compliance with a permit issued to implement and enforce this administrative regulation.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The proposed administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricters standards, or additional or different responsibilities or requirements are not 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 what unit, part or division of local government this administrative regulation will affect. This administrative regulation does not affect any known unit, part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to any known aspect or service of local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

Revenues (+/–): There is no known effect on current revenues. Expenditures (+/–): There is no known effect on current expenditures. Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (New Administrative Regulation)

401 KAR 52:030. Federally-enforceable permits for nonmajor sources.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Part 70, 42 USC 7661 to 7661(f)
STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Part 70, 42 USC 7661 to 7661(f)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation establishes requirements for air contaminant sources located in Kentucky that accept emission limitations to avoid the New Source Review requirements under Title I of the Clean Air Act or the Operating Permit Program requirements under Title V of the Clean Air Act.

Section 1. Applicability. This administrative regulation shall apply to sources that accept permit conditions to limit their potential to emit (PTE) below the major source thresholds that would make them subject to 401 KAR 50:030.

Section 2. Exemptions. (1) The following sources shall be exempt from this administrative regulation:

(a) Sources required to be registered under 401 KAR 52:070;
(b) Sources required to be permitted under 401 KAR 52:040;
(c) Sources required to be permitted under 401 KAR 52:020; and
(d) Sources subject only to the requirements of 40 CFR 60.535 to 60.539b, Standards of Performance for New Residential Wood Heaters.

(2) The following activities shall be exempt from this administrative regulation:

(a) Vehicles used for the transport of passengers of freight;
(b) Publicly-owned roads.
(c) Asbestos demolition or renovation operations subject only to an applicable requirement in 401 KAR Chapter 58;
(d) Open burning covered under 401 KAR 63:005; and
(e) Activities or emission units contained in the "List of Trivial Activities", which the cabinet shall maintain and make available:
1. On request by contacting the Division for Air Quality, Permit Support Section, phone (502) 573-3382, Email: NREPC.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787;
and
2. On the internet at:
www.nr.state.ky.us/nrepc/dep/dsq/prb/trivial.html.

Section 3. General Provisions. (1) Sources subject to this administrative regulation shall:

(a) Not construct, reconstruct, or modify without a permit issued under this administrative regulation, except as provided in Sections 13, 14, 15, and 17 of this administrative regulation;
(b) Operate in compliance with a permit issued under this administrative regulation;
(c) Demonstrate compliance with applicable requirements if requested by the cabinet;
(d) Comply with 401 KAR 50:036, Emissions fee, if applicable;
(e) Submit an annual compliance demonstration pursuant to Section 21 of this administrative regulation; and
(f)1. Allow authorized representatives of the cabinet to enter upon the premises at reasonable times:
(a) To access and copy any records required by the permit;
(b) To inspect any facility, equipment (including air pollution control equipment), practice, or operation; and

To sample or monitor substances or parameters to determine compliance with the permit and all applicable requirements.
2. Reasonable times shall be:
(a) During all hours of operation;
(b) During normal office hours; or
(c) During an emergency.
(2)(a) Permits issued to construct, reconstruct, or modify a source shall become invalid if the permitted action:
1. Is not commenced within eighteen (18) months after the date the permit is issued;
2. Begins but is discontinued for a period of eighteen (18) months or more; or
3. Is not completed within eighteen (18) months of the scheduled completion date.
(b) The cabinet may extend these time periods if the source shows good cause.
(c) For phased construction projects, each phase shall commence construction within eighteen (18) months of the projected and approved commencement dates.
(3) For sources that construct, reconstruct, or modify shall demonstrate compliance pursuant to 401 KAR 50:055 as follows:
(a) New or reconstructing sources shall demonstrate compliance with all applicable requirements;
(b) Modifying sources shall demonstrate compliance with all requirements that:
1. Become applicable following the modification; or
2. May be affected as a result of the modification; and
(c) Sources that have not demonstrated compliance during the prescribed timeframe given in 401 KAR 50:055 shall operate only for purposes of demonstrating compliance unless otherwise authorized by an order of the cabinet.
(4) Sources that are located in ozone nonattainment areas and emit or have the potential to emit 25 tpy or more of VOC or NOx shall submit an annual emission certification pursuant to Section 25(2) of this administrative regulation.

Section 4. Applying for a Permit, Permit Revision, or Permit Renewal. (1) Complete application shall be submitted using Forms DEP7007A1 to DD, which is incorporated by reference in 401 KAR 52:050, for the following permit actions:

(a) Initial permits for new sources;
(b) Initial permits for existing sources that become subject to this administrative regulation as the result of a change;
(c) Renewal permits; and
(d) Permit revisions, including administrative permit amendments, minor permit revisions, significant permit revisions, and modifications at sources that do not have source-wide permits.
(2) A complete application shall contain the information specified in Section 5 of this administrative regulation, except that:
(a) A compliance plan or schedule (Forms DEP7007AA, BB, and CC) shall not be required for applications to construct a new source;
(b) Applications for permit revisions shall provide only the information related to the change; and
(c) Applications for permit renewals shall provide only the information that is new or different from the most recent source-wide permit application.
(3) Sources that submit an application with a claim of confidential information shall:
(a) Authorize the cabinet to submit the information to the U.S. EPA;
(b) Submit the information directly to the U.S. EPA.
(4) Completed application forms shall be submitted to Kentucky Division for Air Quality, Attn: Permit Support Section, 803 Schenkel Lane, Frankfort, Kentucky 40601:
(a) For initial permits, minor permit revisions, significant permit revisions, and permit renewals, in triplicate (original plus two (2) copies); and
(b) For administrative permit amendments, the original only.
(5) The cabinet may request up to seven (7) additional copies of the completed application form if needed for public review.
(6) Forms DEP 7007A1 to DD may be obtained:
(a) By contacting the Kentucky Division for Air Quality, Permit Support Section, 803 Schenkel Lane, Frankfort, Kentucky 40601, phone (502) 573-3382, Email:
Section 5. Information Required on Application. Applications shall contain:

1. All the information needed to determine the applicable requirements and applicable emission fees;
2. The following administrative information:
   a. Company name and address and, if different, plant name and address;
   b. Owner's and agent's names and addresses;
   c. Name, address, and phone number of the plant site manager or contact;
   d. Description of the source's processes and products; and
   e. Appropriate SIC code;
3. The following emissions-related information:
   a. All emissions of regulated air pollutants, except those exempted in Section 2(2) of this administrative regulation;
   b. All fugitive emissions listed in the same manner as stack emissions;
   c. Additional information if needed to verify which requirements are applicable;
   d. Identification of the applicable requirements for each emissions unit;
   e. Identification and description of all emission units and emission points in sufficient detail to establish the basis for applicable requirements and applicable emission fees;
4. Emission rates in terms necessary to determine compliance with applicable requirements;
5. Fuels, fuel use, raw materials, production rates, and operating schedules to the extent needed to determine or to limit emissions;
6. Other information required by an applicable requirement, including stack height limitations developed pursuant to 401 KAR 50:042; and
7. Calculations on which the information in this paragraph is based;
8. Citation and description of all applicable requirements, and the applicable test method for determining compliance with each;
9. An explanation of proposed exemptions to otherwise applicable requirements;
10. Other information needed to implement and enforce other applicable requirements or to determine their applicability;
11. If applicable, information needed to determine the applicable requirements and emission fees, and to define the permit terms and conditions for:
   a. Each alternate operating scenario; and
   b. Emissions trading under federally-enforceable emissions caps;
12. A compliance plan containing:
   a. The compliance status for all applicable requirements, including:
      1. For requirements with which the source is in compliance, a statement that the source will continue to comply; and
      2. For requirements with which the source is not in compliance, a narrative description of how the source will achieve compliance;
   b. A compliance schedule, including:
      1. For applicable requirements that will become effective during the permit term, a statement that the source will comply on a timely basis, unless a more detailed schedule is called for in the applicable requirement; and
      2. For requirements with which the source is not in compliance, remedial measures leading to compliance, including checkpoints and scheduled completion dates; and
      c. For sources required to have a schedule of compliance to remedy a violation or noncompliance, a schedule for submission of certified progress reports no less frequent than every six (6) months;
      9. A certification of compliance with all applicable requirements by a responsible official;
10. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping and reporting requirements, and test methods;
11. A schedule for submission of compliance certifications during the permit term, to be submitted annually or more frequently if specified by the cabinet or in an applicable requirement;
12. A statement describing the source's compliance status with applicable monitoring, including enhanced monitoring, and compliance certification requirements; and
13. Insignificant activities as specified in Section 6 of this administrative regulation.

Section 6. Insignificant Activities. (1) Activities that meet the following conditions shall be classified as insignificant activities:

a. The PTE from each activity shall not exceed:
   1. One-half (1/2) tpy of a HAP;
   2. One and one-half (1-1/2) tpy of combined HAPs; or
   3. Five (5) tpy of a nonhazardous regulated air pollutant;
   b. The activity shall not involve the incineration of medical waste; and
   c. The activity shall not be subject to a federally-enforceable requirement, other than generally applicable requirements.

(2) In applications for permits, permit revisions, and permit renewals, sources shall:

a. Include descriptions for all insignificant activities;
   b. Include all applicable requirements for each insignificant activity; and
   c. Not be required to provide detailed estimates for insignificant activities.

(3) A list of insignificant activities and generally applicable requirements approved by the cabinet shall be maintained and made available on request by contacting the Division for Air Quality, Permit Support Section, phone (502) 573-3382, Email: NREPC.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787.

Section 7. Duty to Supplement or Correct Application. (1) An applicant who fails to submit relevant facts or who has submitted incorrect information in an application shall, upon discovery of the occurrence, promptly submit the supplementary facts or corrected information.

(2) If new requirements become applicable to a source after the application is submitted, but before a draft permit is issued, the applicant shall promptly provide the supplemental information to the cabinet.

(3) Failure to supplement or correct an application shall be a violation of this administrative regulation and may result in:

a. Termination of a permit;
   b. Revocation and reissuance of a permit;
   c. Revision of a permit; or
   d. Denial of a permit.

Section 8. Application Shield. (1) If an existing source submits a timely and complete application for a source-wide permit or permit renewal, the source's failure to have a permit shall not be a violation of this administrative regulation unless the cabinet makes a final determination to deny the permit or permit renewal.

(2) A source's authority to operate shall cease to apply if the source fails to submit additional information requested by the cabinet, by the deadline set by the cabinet, after the completeness determination has been made.

Section 9. Completions Review and Determination. Applications shall be reviewed by the cabinet for completeness pursuant to Section 2:1-1 of "Cabinet Provisions and Procedures for Issuing Federally-Enforceable Permits for Nonmajor Sources," which is incorporated by reference in Section 26 of this administrative regulation, for:

1. Initial permits for new sources;
2. The first Title V permit for existing sources;
3. Significant permit revisions; and
4. Permit renewals.

Section 10. Permit Content. Permits shall contain terms and conditions as provided in Sections 1a to 1c of "Cabinet Provisions and Procedures for Issuing Federally-Enforceable Permits for Nonmajor Sources."

Section 11. Permit Shield. (1) Compliance with the conditions of a permit shall be considered compliance with all applicable requirements if:
(a) The applicable requirements are included and specifically identified in the permit; or
(b) The cabinet, in reviewing the application, determines that other specifically identified requirements are not applicable to the source, and this determination is stated in the permit.

(2) A permit shall not have a permit shield unless the permit expressly states that a shield exists.

(3) A permit shield shall not protect the owner or operator from enforcement for violating an applicable requirement prior to or at the time of permit issuance.

Section 12. Permit Duration and Renewal. (1) Permits issued pursuant to this administrative regulation shall remain in effect for five (5) years, except that permits for municipal waste incinerators shall remain in effect for twelve (12) years and shall be reviewed by the cabinet every five (5) years.

(2) An application for a permit renewal shall be submitted at least six (6) months prior to expiration of the current permit.

(3) Expiration of a permit shall terminate the source’s authority to operate unless the source has submitted a timely and complete renewal application.

(4) All terms and conditions of the previous permit, including the permit shield, shall remain in effect until the renewal permit has been issued or denied.

(a) The cabinet fails to issue or deny the renewal permit before the expiration of the previous permit; and
(b) The source has submitted a timely and complete renewal application.

Section 13. Administrative Permit Amendments. (1) The following permit revisions may be processed as administrative permit amendments:

(a) Correct typographical errors;
(b) Change the name, address, or phone number of a person identified in the permit, or make similar administrative changes;
(c) Change in ownership or operational control;
(d) Require more frequent monitoring or reporting; and
(e) Add an insignificant activity.

(2) Sources requesting an administrative permit amendment shall submit the appropriate Forms DEP70007A1 to DD reflecting the desired change and may implement the change immediately upon submittal.

(3) For administrative permit amendments in which the owner or person to whom a permit is issued changes, the following information shall be submitted to the cabinet within ten (10) days following the change:

(a) Administrative Information Forms DEP70007A1 showing the names and other information that has changed; and
(b) If ownership has changed, a signed written agreement specifying the date of transfer of permit responsibility, coverage, and liability.

Section 14. Minor Permit Revisions. (1) The procedures in this section shall be used for permit revisions that:

(a) Do not involve an applicable requirement;
(b) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
(c) Do not require or change a case-by-case determination of:
   1. An emission limitation or other standard;
   2. A source-specific determination for temporary sources of ambient impacts; or
   3. A visibility or increment analysis;
(d) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and which the source has assumed to avoid an otherwise applicable requirement, including:
   1. A federally enforceable emissions cap assumed to avoid classification as a modification under Title I; and
   2. An alternative emissions limit approved pursuant to 42 USC 7412(f)(5);
(e) Are not modifications under Title I of the Act; and
(f) Are not required to be processed as significant permit revisions.

(2) The procedures in this section may be used for changes involving the use of economic incentives, marketable permits, emissions trading, or similar programs in:

(a) The state implementation plan (SIP); or
(b) A federal requirement.

(3) Applications for minor permit revisions shall include:

(a) A description of the change, and the resulting change in emissions;
(b) New requirements that will apply after the change;
(c) Certification that the change meets the criteria for use of minor permit revision procedures, and a request for their use; and
(d) A suggested draft permit showing only the information that is new or different than the existing permit.

(4) The source may implement the change immediately upon filing a complete application.

(5) The permit shield shall not extend to minor permit revisions.

Section 15. Group Processing of Minor Permit Revisions. (1) Group processing shall be used only for permit revisions that:

(a) Meet the criteria for minor permit revisions; and
(b) Are collectively below the following thresholds:

1. Ten (10) percent of the emissions allowed in the permit for the emission unit or units affected by the change; and
2. The lesser of twenty (20) percent of the applicable major source threshold or five (5) tons per year;

(2) A source with two (2) or more pending minor permit revisions may apply for group processing by submitting:

(a) A written request to use group processing;
(b) A list of pending permit revision applications awaiting group processing, and a determination of whether the sum of all the revisions will equal or exceed a thresholds in this section;

(c) Certification that all the pending revisions meet the criteria for use of group processing procedures;

(d) A list of new requirements that will apply after each revision is made; and

(e) A suggested draft permit showing only the information that is new or different than the existing permit.

(3) The source may implement the changes immediately upon filing a complete application.

(4) The permit shield shall not extend to permit revisions eligible for group processing.

Section 16. Significant Permit Revisions. (1) Significant permit revision procedures shall be used for revisions that:

(a) Involve significant changes in the monitoring requirements or a relaxation in the reporting or recordkeeping requirements contained in the permit; or
(b) Do not qualify as administrative permit amendments or minor permit revisions.

(2) Significant permit revisions shall follow the same procedures that are required for initial permits and permit renewals.

(3) The permit shield shall extend to significant permit revisions.

Section 17. Off-Permit and Section 502(b)(10) Changes. (1) A permit revision shall not be required for changes that:

(a) Are neither addressed nor prohibited in the permit; or
(b) Qualify as a change under 42 USC 7661a(b)(10).

(2) Sources may make these changes without a permit revision if:

(a) The change does not cause emissions to exceed those allowed in the permit, expressed as an emission rate or total emissions; and
(b) The change is not a modification under Title I of the Act.

(3) A source proposing to make a change pursuant to this section shall notify the cabinet at least seven (7) workdays prior to making the change. A copy of the notice shall be attached to the permit and shall contain the following information:

(a) A description of the change;
(b) The date on which the change will occur;
(c) The resulting change in emissions; and
(d) Any permit terms or conditions that will no longer be applicable after the change.

(4) The permit shield shall not extend to changes made under this section.

(5) Changes made under this section shall be incorporated into the permit upon renewal.
Section 18. Reopening for Cause. (1) A permit shall be reopened prior to expiration, if:
   (a) New requirements become applicable to a source with a remaining permit term of three (3) or more years; or
   (b) The cabinet or the U.S. EPA determines that:
      1. The permit contains a material mistake or an inaccurate statement was made when establishing the standards, terms or conditions of the permit; or
      2. It is necessary to revise or revoke the permit to assure compliance with applicable requirements.
(2) Reopening a permit:
   (a) Shall follow the same procedures as initial permit; and
   (b) Shall affect only those parts of the permit for which cause to reopen exists.
(3) The source shall submit an application for a permit revision within six (6) months after notification by the cabinet.

Section 19. General Permits. The cabinet may issue a general permit covering similar sources in the same source category.
(1) A general permit shall require compliance with all requirements applicable to other permits and shall identify criteria by which sources may qualify for coverage.
(2) Sources that qualify for a general permit may:
   (a) Apply to the cabinet for coverage under the terms of the general permit; or
   (b) Apply for an individual permit under this administrative regulation.
(3) An application for a general permit shall include information necessary to determine qualification for, and to assure compliance with, the general permit.
(4) If the cabinet determines that a source does not meet the criteria for a general permit, the application shall be processed as a single-source permit pursuant to this administrative regulation.
(5) The permit shield shall apply to general permits.
(6) If a source applies for and receives a general permit and is later determined not to qualify for the permit's terms and conditions:
   (a) The source shall be subject to enforcement action for operating without a permit; and
   (b) The permit shield shall not be a defense to this violation.

Section 20. Temporary Replacement Units. The cabinet may authorize the temporary use of an emission unit to replace a similar unit that is taken off-line for maintenance, if the following conditions are met:
(1) The owner or operator shall submit to the cabinet, at least ten (10) days in advance of replacing a unit, the appropriate Forms DEPT001 to DD that show:
   (a) The size and location of both the original and replacement units; and
   (b) Any resulting change in emissions;
(2) The PTE of the replacement unit shall not exceed that of the original unit by more than twenty-five (25) percent of a major source threshold;
(3) The PTE of the replacement unit or the resulting PTE of the source shall not subject the source to a new applicable requirement;
(4) The replacement unit shall comply with all applicable requirements; and
(5) Within six (6) months after installing the replacement unit, the owner or operator shall:
   (a) Reinstall the original unit; or
   (b) Submit an application to permit the replacement unit as a permanent change.

Section 21. Compliance Certifications. (1) By January 30 of each year, sources subject to this administrative regulation shall submit to the cabinet an annual compliance certificate for all applicable requirements.
(2) The compliance certification shall contain the following information for each term or condition of the permit that is the basis for the certification:
   (a) Identification of the term or condition;
   (b) Compliance status;
   (c) Whether compliance was intermittent or continuous;
   (d) The method used for determining compliance over the reporting period; and
   (e) The method currently used for determining compliance.
(3) Compliance certifications shall be mailed to the Division for Air Quality, Central Files, 803 Schenkel Lane, Frankfort, Kentucky 40601, and a copy sent to the appropriate Regional Office listed in Section 26 of this administrative regulation.

Section 22. Certification by Responsible Official. A responsible official shall certify that, based on information and belief formed after reasonable inquiry, the statements and information contained in the following documents are true, accurate, and complete:
(1) Applications;
(2) Reports;
(3) Compliance certifications; and
(4) Emissions certifications.

Section 23. Emergency Provision. (1) An emergency shall be an affirmative defense to enforcement actions brought for noncompliance with a technology-based emission standard if:
   (a) The source demonstrates that the incident meets criteria for an emergency;
   (b) The source took all reasonable steps to minimize excess emissions; and
   (c) The source notified the cabinet as quickly as possible and followed-up with a written report within two (2) workdays after the emergency occurred.
(2) In an enforcement proceeding seeking to establish that an emergency occurred, the burden of proof shall rest with the source.
(3) This provision shall be in addition to any emergency or upset provision contained in an applicable requirement.

Section 24. Public Review. Initial permits, significant permit revisions, and permit renewals issued under this administrative regulation shall be offered for public review pursuant to 401 KAR 52:100.

Section 25. Sources Subject to Title V. (1) Unless exempted in a future rulemaking by the U.S. EPA, sources that are subject to federal standards promulgated under 42 USC 7411 (NSPS) or 42 USC 7412 (NESHAP) shall:
   (a) Be subject to 42 USC 7661 to 76611 (Title V of the Act);
   (b) Comply with 401 KAR 50:038, Emission fees;
   (c) Submit annual emissions certifications pursuant to subsection (2) of this section; and
   (d) Submit an application for a permit under 401 KAR 52:020 within one (1) year following promulgation of a final rulemaking by the U.S. EPA requiring the source to obtain a Title V permit.
(2) During the first quarter of each calendar year, the cabinet shall survey each source to determine its actual emissions during the preceding calendar year, and the source shall provide and certify the information requested and return the survey to the cabinet by the date indicated in the cover letter;
   (a) Each day past the deadline that a source fails to submit the required information shall be a separate violation of this administrative regulation;
   (b) If no response is received from a source, the cabinet may estimate its actual emissions based on prior history and other relevant information that is available; and
   (c) Failure by the cabinet to notify a source shall not relieve the source of its obligation to submit an annual emissions statement.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:
   (a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3322;
   (b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2057;
   (c) Bowling Green Regional Office, 1508 Western Avenue, Bowling Green, Kentucky 42104, (270) 746-7475;
   (d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 292-6411;
(e) Frankfort Regional Office, 643 Teton Trail, Suite B, Frankfort, Kentucky, 40601, (502) 854-3359.
(f) Hazard Regional Office, 223 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;
(g) London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 878-0157;
(h) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 887-7504; and
(i) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (270) 889-8468;
(3) This material may also be obtained:
(a) By Email request to: NREPC.DEP@air.permits@mail.state.ky.us; or
(b) On the Internet at www.nn.state.ky.us/nrepc/dep/daq/prb.

JAMES E. BICKFORD, Secretary  
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency at least 15 days prior to the hearing of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation, send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis

(1) Type and number of entities affected: This administrative regulation provides the requirements and procedures for issuing, revising, and renewing permits for conditional major and synthetic minor sources in Kentucky. There are currently about 150 sources that have permits issued under previous versions of these rules.

(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 during the notice of intent public comment period concerning added costs or savings for the cost of living or employment in the geographical area where this administrative regulation will be implemented, and the cabinet foresees none.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments were received during the notice of intent public comment period concerning added costs or savings for doing business in the geographical area where this administrative regulation will be implemented, and the cabinet foresees none.
(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
1. First year following implementation: From the comments received, compliance, reporting, and paperwork requirements should all be less confusing, and therefore less costly. This is because, under the previous administrative regulations, many requirements, which apply only to major sources, were often assumed to apply to minor sources as well.
2. Second and subsequent years: The first-year benefits will continue in the second and subsequent years.
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: There will be minor savings for the division in the first and subsequent years through a reduction in workload in the Permit Review Branch.
2. Continuing costs or savings: The first-year benefits will continue in subsequent years.
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: While the proposed administrative regulation will not change reporting requirements, there will be some reduction in paperwork requirement due to the fact that the provisions of 401 CAR 50:035, which is being repealed in a separate action (401 CAR 50:071) have been clarified and simplified in the proposed administrative regulation.
(4) Assessment of anticipated effect on state and local revenues:
There are no anticipated effects on local and state revenues.
(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement this administrative regulation.
9. To the extent available from the public comments received, economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: No comments were received during the notice of intent public comment period regarding economic impact in the geographical area in which the proposed administrative regulation will be implemented, and the cabinet foresees none.
(b) Kentucky: No comments were received during the notice of intent public comment period regarding economic impact in Kentucky, and the cabinet foresees none.
(7) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative considered was whether or not to require all conditional major and synthetic minor permits to be submitted for public review. The division chose to submit them all instead of just those containing limits over fifty percent of the major source thresholds. This option was chosen because it has very little impact on the source but could have a major impact on the division workload if the courts decide in the U.S. EPA's favor.
(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 will be no appreciable effect on public health and the environment as a result of the proposed administrative regulation since the provisions are essentially the same as are in the existing administrative regulation, 401 CAR 50:035, which is being repealed in a separate action (401 CAR 50:071).
(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on environment and public health would not result.
(c) If detrimental effect would result, explain detrimental effect: A detrimental effect would not result because, the Clean Air Act requires major sources to have Title V permits, and the U.S. EPA would issue these permits if the cabinet failed to provide an alternate permitting mechanism. Sources covered under the proposed administrative regulation would be required to obtain and maintain Title V permits pursuant to 40 CFR 70, if the provisions contained in the proposed administrative regulation were not available to limit their emissions below the applicability thresholds.
(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict or which overlap or duplicate the proposed administrative regulation.
(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The administrative regulation is not in conflict.
(10) Any additional information or comments: The requirements
and procedures in the proposed administrative regulation were previously contained in 401 KAR 50:035 together with similar provisions for major, conditional major, and synthetic minor sources. 401 KAR 50:035 is being renumbered in a separate section (401 KAR 50:071), and its provisions are being promulgated in individual administrative regulations for each source type, which are being moved to a new chapter of Kentucky Administrative Regulations, 401 KAR Chapter 52. Emphasis has been given to separating the requirements for minor source permitting from those for major, conditional major, and synthetic minor sources with which minor source requirements have often been confused. In addition to updating the existing provisions to agree with current U.S. EPA guidelines, drafting language has been clarified and simplified to comply with the cabinet’s initiative on plain language drafting. The only significant requirement for conditional major and synthetic minor sources that has been changed in the proposed administrative regulation is the one for public participation. Whereas the current administrative regulation requires that only permits whose emission limits equal or exceed 50% of a major source threshold must be submitted for public review, the proposed administrative regulation requires that all permits be offered for review. The cabinet has decided to do this because 1) very few permits have been issued over the past 5 years containing limits less than 50%, and 2) in the event the courts rule in EPA’s favor and decide these permits should be federally enforceable, the division will not have to resubmit all of the permits for public review.

(11) TIERING: Is tiering applied? No. The provisions of the proposed administrative regulation apply equally to all sources throughout the Commonwealth that meet the applicability determination of Section 1 of the proposed administrative regulation. Therefore, tiering is not applied in the proposed administrative regulation. However tiering is provided in the cabinet’s air permitting process.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation does not affect any known unit, part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to any known aspect or service of local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)


RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7412, 7429

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7412, 7429

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation establishes requirements for minor sources whose permits are not required to be federally enforceable.

Section 1. Applicability. This administrative regulation shall apply to: (1) Sources that emit or have the potential to emit (PTE): (a) More than twenty-five (25) and less than 100 tons per year (tpy) of a nonhazardous regulated air pollutant; and (b) Less than ten (10) tpy of a HAP and less than twenty-five (25) tpy of combined HAPs; or (2) Except as exempted in Section 2(1)(h) of this administrative regulation, minor source incinerators that are subject to an applicable requirement in: (a) 401 KAR Chapter 59 or 61; (b) 40 CFR Part 60 or 63; or (c) A federal regulation promulgated under 42 USC 7429.

Section 2. Exemptions. (1) The following sources shall be exempt from this administrative regulation: (a) Sources that are required to be registered under 401 KAR 52:070; (b) Sources that are required to be permitted under 401 KAR 52:020 or 401 KAR 52:030; (c) Sources that emit only pollutants for which there are no applicable requirements; (d) Sources that are exempt from applicable requirements that clearly specify the method for achieving compliance; (e) Sources that emit only nonprocess fugitive emissions; (f) Sources subject only to the requirements of 40 CFR 60.530 to 60.539b, Standards of Performance for New Residential Wood Heaters; (g) Sawmills that produce only rough-cut or dimensional lumber from logs and which have a rated capacity of 5,000 board feet per hour or less, if the source does not include an indirect heat exchanger or waste wood burner subject to an applicable requirement in 401 KAR Chapter 59, 60, or 61; and (h) Incinerators with unit capacities of less than 500 lbs/hr that are subject only to 401 KAR 59:020, 401 KAR 59:021, 401 KAR 61:010, or 401 KAR 61:011.

(2) The following activities shall be exempt from this administrative regulation: (a) Vehicles used for the transport of passengers or freight; (b) Publicly-owned roads; (c) Asbestos demolition or renovation operations subject only to an applicable requirement in 401 KAR Chapter 58; (d) Open burning covered under 401 KAR 63:005; and (e) Activities or emission units contained in the "List of Trivial Activities", which the cabinet shall maintain and make available: 1. On request by contacting the Division for Air Quality, Permit Support Section, phone (502) 573-3382, Email: NREPC.DEPAirPermits@m.state.ky.us, or fax (502) 573-3787; and 2. On the internet at: www.nre.state.ky.us/nrepc/dep/daq/prb/trivial.html.

Section 3. General Provisions. (1) Sources subject to this administrative regulation shall: (a) Obtain a permit prior to construction, reconstruction, or modification pursuant to Section 12 of this administrative regulation; (b) Operate in compliance with a permit issued under this administrative regulation; (c) Comply with all applicable requirements; (d) Demonstrate compliance with applicable requirements if requested by the cabinet; (e) Submit an annual compliance certification pursuant to Section 19 of this administrative regulation; and (f)1. Allow authorized representatives of the cabinet to enter upon the premises where a source is located or emissions-related activity is conducted, or where records are kept, at reasonable times: a. To access and copy any records required by the permit; b. To inspect any facility, equipment (including air pollution control equipment), practice, or operation; and c. To sample or monitor substances or parameters to determine compliance with the permit and applicable requirements.

2. Reasonable times shall be: a. During all hours of operation; b. During normal office hours; or c. During an emergency.
(2) Unless exempted in a future rulemaking by the U.S. EPA, minor sources subject to federal standards promulgated under 42 USC 7411 (NSPS) or 42 USC 7412 (NESHAP) shall:
   (a) Be subject to 42 USC 7661 to 7661f (Title V of the Act);
   (b) Comply with 401 KAR 50:038, Emissions fee;
   (c) Submit annual emissions certifications pursuant to Section 20 of this administrative regulation; and
   (d) Submit an application for a permit under 401 KAR 52:020 within one (1) year following promulgation of a final rulemaking by the U.S. EPA requiring the source to obtain a Title V permit.

(3) Sources that are located in ozone nonattainment areas and emit or have the potential to emit 25 tpy or more of VOC or NOx shall submit an annual emission certification pursuant to Section 20 of this administrative regulation.

Section 4. Applying for a Permit, Permit Revision, or Permit Renewal. (1) Applications for permits, permit revisions, or permit renewals shall be made using Forms DEP7007A1 to DD, which are incorporated by reference in 401 KAR 52:050.

(2) A complete application shall contain the information specified in Section 5 of this administrative regulation, except that:
   (a) Forms DEP7007V to 70072 shall not be required;
   (b) A compliance plan or schedule (Forms DEP7007A3A, BB, and CC) shall not be required for applications to construct a new source;
   (c) Applications for permit revisions shall provide only the information related to the change; and
   (d) Applications for permit renewals shall:
      . Provide only the information that is new or different from the most recent permit application for sources with source-wide permits; or
      . Be a complete application pursuant to Sections 5 and 15(5) of this administrative regulation for sources that have not applied for a source-wide permit.

(3) Completed application forms shall be submitted in triplicate (original plus two (2) copies) to Kentucky Division for Air Quality, Attn: Permit Support Section, 803 Schenkel Lane, Frankfort, Kentucky 40601.

(4) Forms DEP7007A1 to DD may be obtained:
   (a) By contacting the Kentucky Division for Air Quality, Permit Support Section, 803 Schenkel Lane, Frankfort, Kentucky 40601, phone (502) 573-3382, Email: NREP.C.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787;
   or
   (b) On the Internet at:
       www.state.ky.us/nrepc/dep/daq/pdb/daqapp.htm.

Section 5. Information Required on Application. Complete applications shall include:
(1) All information needed to determine applicable requirements, including emission fees if applicable;
(2) The following administrative information:
   (a) Company name and address and, if different, plant name and address;
   (b) Owner's and agent's names and addresses;
   (c) Name, address, and phone number of the plant site manager or contact;
   (d) Description of the source's processes and products; and
   (e) Appropriate SIC Codes;
(3) The following emissions-related information:
   (a) All emissions of regulated air pollutants except those exempted in Section 2(2) of this administrative regulation;
   (b) Additional information if needed to verify which requirements are applicable;
   (c) Identification and description of all emission units in sufficient detail to establish the basis for applicable requirements;
   (d) Emission rates in terms necessary to determine compliance with applicable requirements;
   (e) Fuels, fuel use, raw materials, production rates, and operating schedules to the extent needed to determine emissions;
   (f) Other information required by an applicable requirement, including stack height limitations developed in compliance with 401 KAR 50:042; and
   (g) Calculations upon which the information in this paragraph is based.
(4) An explanation of proposed exemptions to otherwise applicable requirements;
(5) Additional information if needed to implement and enforce applicable requirements or to determine their applicability;
(6) If applicable, information needed to determine the applicable requirements and emission fees and to determine the permit terms and conditions for each alternate operating scenario;
(7) A compliance plan containing:
   (a) The compliance status for all applicable requirements, including:
      1. For requirements that are in compliance, a statement that the source will continue to comply; and
      2. For requirements that are not in compliance, a narrative description of how the source will achieve compliance;
   (b) A compliance schedule, including:
      1. For applicable requirements that will become effective during the permit term, a statement that the source will comply on a timely basis, unless a more detailed schedule is called for in the applicable requirement; and
      2. For requirements that are not in compliance, remedial measures leading to compliance, including checkpoints and scheduled completion dates; and
   (c) For sources required to have a schedule of compliance to remove a source violation or noncompliance, a schedule for submission of certified progress reports no less frequent than every six (6) months;
(8) A certification of compliance with all applicable requirements by a responsible official;
(9) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping and reporting requirements, and test methods;
(10) A statement including the source's compliance status with applicable monitoring requirements;
(11) A schedule for submission of annual compliance certifications of this administrative regulation; and
(12) Insignificant activities as specified in Section 6 of this administrative regulation.

Section 6. Insignificant Activities. (1) Activities that meet the following conditions shall be classified as insignificant activities:
   (a) The PTE from each activity shall not exceed:
      1. One-half (1/2) tpy of a HAP;
      2. One and one-half (1 1/2) tpy of combined HAPs; or
      3. Five (5) tpy of a nonhazardous regulated air pollutant;
   (b) The activity shall not involve the incineration of medical waste; and
   (c) The activity shall not be subject to a federally-enforceable requirement, other than generally applicable requirements.
(2) In applications for permits, permit revisions, and permit renewals, sources shall:
   (a) Include descriptions for all insignificant activities;
   (b) Include all applicable requirements for each insignificant activity; and
   (c) Not be required to provide detailed estimates for insignificant activities.
(3) A list of insignificant activities and generally applicable requirements approved by the cabinet shall be maintained and made available on request by contacting the Division for Air Quality, Permit Support Section, phone (502) 573-3382, Email: NREP.C.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787.

Section 7. Duty to Supplement or Correct Application. (1) An applicant who fails to submit relevant facts or who has submitted incorrect information in an application shall, upon discovery of the occurrence, promptly submit the supplementary facts or corrected information to the cabinet.
(2) If new requirements become applicable to a source after the application is submitted, but before a permit is issued, the applicant shall promptly provide the supplemental information to the cabinet.
(3) A source's authority to operate shall cease to apply if, by the deadline set by the cabinet, the source fails to submit additional information requested by the cabinet.

Section 8. Application Shield. (1) If a source submits a timely and complete application for a source-wide permit or permit renewal, the
source's failure to have a permit shall not be a violation of this administrative regulation unless the cabinet makes a final determination to deny the permit or permit renewal.

(2) The application shall cease to exist if a source fails to supplement or correct an application pursuant to Section 7 of this administrative regulation.

Section 9. Completeness Review and Determination. Applications shall be reviewed by the cabinet for completeness pursuant to Section 2-c of "Cabinet Provisions and Procedures for Issuing State-Origin Permits", which is incorporated by reference in Section 23 of this administrative regulation, for:

(1) Initial source-wide permits;
(2) Permit revisions subject to Section 12 of this administrative regulation; and
(3) Permit renewals.

Section 10. Permit Content. Permits shall contain terms and conditions as provided in Sections 1a to 1c of "Cabinet Provisions and Procedures for Issuing State-Origin Permits."

Section 11. Permit Shield. (1) Compliance with the conditions of a permit shall be considered compliance with all applicable requirements if:

(a) The applicable requirements are included and specifically identified in the permit; or
(b) The cabinet, in reviewing the application, determines that other specifically identified requirements are not applicable to the source, and this determination is stated in the permit.

(2) A permit shall not have a permit shield unless the permit expressly states that a shield exists.

(3) A permit shield shall not protect the owner or operator from enforcement actions for violating an applicable requirement prior to or at the time of permit issuance.

Section 12. Actions that Require a Permit or Permit Revision in Advance. (1) Sources shall obtain a permit or permit revision prior to commencing construction for the following actions:

(a) Construction of a new source;
(b) Reconstruction of an existing source; or
(c) Modification at a source that will increase its PTE by:
   1. Two and one-half (2 1/2) tpy or more of a HAP;
   2. Seven and one-half (7 1/2) tpy or more of combined HAPs; or
   3. Twenty-five (25) tpy or more of a nonhazardous regulated air pollutant.

(2) The source shall not commence construction, reconstruction, or modification until a permit or permit revision has been issued.

(3) For a source that is issued a permit to construct, reconstruct, or modify:
   (a) The permit shall become invalid if the permitted action:
      1. Is not commenced within eighteen (18) months after the permit is issued;
      2. Begins but is discontinued for a period of eighteen (18) months or more; or
      3. Is not completed within a reasonable timeframe; and
   (b) The cabinet may extend these time periods if the source shows good cause.

(4) Sources that construct, reconstruct, or modify under this section:
   (a) Shall demonstrate compliance with all applicable requirements pursuant to 401 KAR 50:035; and
   (b) Sources that have not demonstrated compliance within the timeframes prescribed in 401 KAR 50:035, shall operate only for purposes of demonstrating compliance unless authorized under an order of the cabinet.

Section 13. Actions That Do Not Require a Permit Revision in Advance. For all permit revisions except those in Section 12 of this administrative regulation, the source:

(1) Shall submit a complete application for a permit revision; and
(2) May implement the change immediately upon submittal of the application.

Section 14. Change of Ownership or Name of Permittee. If the owner or person to whom a permit is issued changes, the following information shall be submitted to the cabinet within ten (10) days following the change:

(1) The administrative information required by Form DEP7007A1 showing the names and other information that has changed; and
(2) If ownership has changed, a signed written agreement specifying the date of transfer of permit responsibility, coverage, and liability.

Section 15. Permit Duration and Renewal. (1) Permits issued pursuant to this administrative regulation shall remain in effect for a period of ten (10) years.

(2) Applications for a renewal permit shall be submitted at least six (6) months prior to expiration of the existing permit.

(3) Expiration of a permit shall terminate the source's right to construct and operate unless a timely and complete renewal application has been submitted.

(4) All terms and conditions of the previous permit, including the permit shield, shall remain in effect until the renewal permit has been issued or denied if:
   (a) The cabinet fails to issue or deny a renewal permit before the expiration of the previous permit; and
   (b) The source has submitted a timely and complete renewal application.

(5) After the effective date of this administrative regulation, sources that have not applied for a source-wide permit shall submit a complete application for a source-wide permit the next time a permit is issued by the source is due for renewal.

Section 16. General Permits. The cabinet may issue a general permit covering similar sources in the same source category.

(1) A general permit shall require compliance with all requirements applicable to other permits and shall identify criteria by which sources may qualify for coverage.

(2) Sources that qualify for a general permit may:
   (a) Apply to the cabinet for coverage under the terms of the general permit; or
   (b) Apply for an individual permit under this administrative regulation.

(3) An application for a general permit shall include information necessary to determine qualification for, and to assure compliance with, the general permit.

(4) If the cabinet determines that a source does not meet the criteria for a general permit, the application shall be processed as a single-source permit pursuant to this administrative regulation.

(5) If a source applies for and receives a general permit and is later determined not to qualify for the permit's terms and conditions:
   (a) The source shall be subject to enforcement action for operating without a permit; and
   (b) The permit shield shall not be a defense to this violation.

Section 17. Portable Sources. (1) The cabinet may issue a permit that authorizes a source to move its entire operation from one location to another within the Commonwealth.

(2) Owners and operators of these sources shall:
   (a) Notify the Division for Air Quality, Field Operations Branch, at (502) 573-3382, at least fifteen (15) days in advance of each relocation;
   (b) Submit Administrative Information Form DEP7007A1 to reflect the change in location; and
   (c) Comply with all applicable requirements at each location.

Section 18. Temporary Replacement Units. The cabinet may authorize the temporary use of an emission unit to replace a similar unit that is taken off line for maintenance, if the following conditions are met:

(1) The owner or operator shall submit to the cabinet, at least ten (10) days in advance of replacing a unit, the appropriate Forms DEP7007A1 to DD that show:
   (a) The size and location of the original and replacement units, and
   (b) Any resulting change in emissions;
   (2) The PTE of the replacement unit shall not exceed that of the original unit by more than twenty-five (25) percent of a major source
threshold;
(3) Neither the PTE of the replacement unit nor the resulting PTE of the source shall subject the source to a new applicable requirement;
(4) The replacement unit shall comply with all applicable requirements; and
(5) Within six (6) months after installing the replacement unit, the owner or operator shall:
   (a) Reinstall the original unit; or
   (b) Submit an application to permit the replacement unit as a permanent change.

Section 19. Compliance Certifications. (1) By January 30 of each year, sources subject to this administrative regulation shall submit to the cabinet an annual compliance certification for all applicable requirements.
(2) The compliance certification shall contain the following information for each term or condition of the permit that is the basis for the certification:
   (a) Identification of the term or condition;
   (b) Compliance status;
   (c) Whether compliance was intermittent or continuous;
   (d) The method used for determining compliance over the reporting period; and
   (e) The method currently used for determining compliance.
(3) Compliance certifications shall be mailed to the Division for Air Quality, Central files, 803 Schenkel Lane, Frankfort, Kentucky 40601, and a copy sent to the appropriate Regional Office listed in Section 23 of this administrative regulation.

Section 20. Annual Emissions Certification for Specified Sources. (1) An annual emissions certification shall be submitted to the cabinet for minor sources specified in Section 3(2) and (3) of this administrative regulation.
(2) During the first quarter of each calendar year, the cabinet shall survey these sources to determine their actual emissions during the preceding calendar year, and the source shall:
   (a) Make the appropriate additions or corrections to the survey; and
   (b) Return the updated survey to the cabinet by the date indicated in the survey letter. For this reason:
   1. Each day past the deadline that a source fails to submit the required information shall be a separate violation of this administrative regulation;
   2. If no response is received by the deadline, the cabinet shall estimate the actual emissions based on prior history and other relevant information that is available; and
   3. Failure of the cabinet to notify a source under this section shall not relieve the source from the obligation to submit an emissions statement.

Section 21. Certification by Responsible Official. A responsible official shall certify that, based on information and belief formed after reasonable inquiry, the statements and information contained in the following documents are true, accurate, and complete:
(1) Applications;
(2) Reports;
(3) Compliance certifications; and
(4) Emissions certifications.

Section 22. Emergency Provision. (1) An emergency shall be an affirmative defense to enforcement actions brought for noncompliance with a technology-based emission standard if:
   (a) The source demonstrates that the incident meets the criteria for an emergency;
   (b) The source took all reasonable steps to minimize the excess emissions; and
   (c) The source notified the cabinet as quickly as possible and followed-up with a written report within two (2) working days after the emergency occurred.
   (2) In an enforcement proceeding seeking to establish that an emergency occurred, the burden of proof shall rest with the source.
   (3) This provision shall be in addition to any emergency or upset provision contained in an applicable requirement.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:
   (a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;
   (b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;
   (c) Bowling Green Regional Office, 1508 Western Avenue, Bowling Green, Kentucky 42104, (270) 746-7475;
   (d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 292-6411;
   (e) Frankfort Regional Office, 643 Teton Trail, Suite B, Frankfort, Kentucky, 40601, (502) 564-3358;
   (f) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-9022;
   (g) London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 878-0157;
   (h) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 867-7304; and
   (i) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (270) 826-5468; or
   (3) This material may also be obtained:
      (a) By Email request to: NREPC.DEPAirPermits@mail.state.ky.us; or
      (b) On the internet at www.nr.state.ky.us/nrepc/dep/daq/prb.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) workdays prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person named below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervior, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis
(1) Type and number of entities affected: The proposed administrative regulation provides the requirements and procedures for issuing, revising, and renewing permits at minor sources in Kentucky. There are currently about 2,500 sources that have state origin permits and newly constructing sources that meet the applicability determinations of Section 1 of the proposed administrative regulation will be required to obtain state origin permits under its provisions.
(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 during the notice of intent public comment period concerning added costs or savings for the cost of living or employment in the geographical area where this administrative regulation will be imple-
mented, and the cabinet foresees none.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments were received during the notice of intent public comment period concerning added costs or savings for doing business in the geographical area where this administrative regulation will be implemented. Nonetheless, the cabinet anticipates that there will be substantial savings to affected sources that will not have to wait for permit revisions before making minor changes.

(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: From comments received during the notice of intent public comment period, the compliance, reporting, and paperwork requirements should all be less confusing, and therefore less costly. This will occur because, under the previous provisions in 401 KAR 50:035 that is being repealed in a separate action (401 KAR 50:071), many requirements which apply only major sources were often assumed to apply to minor sources as well.

2. Second and subsequent years: The first-year-benefits will continue in the second and subsequent years.

3. Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be minor savings for the division in the first and subsequent years through a reduction in workload in the Permit Review Branch.

2. Continuing costs or savings: The first-year-benefits will continue in subsequent years.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: While the proposed administrative regulation will not change reporting requirements, there will be some reduction in paperwork requirement due to the reduced permitting workload.

4. Assessment of anticipated effect on state and local revenues: There are no anticipated effects on local and state revenues.

5. Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used for implementation of this administrative regulation.

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

(a) Geographical area in which administrative regulation will be implemented: No comments were received during the notice of intent public comment period regarding economic impact in the geographical area in which the proposed administrative regulation will be implemented. The cabinet anticipates that there will be an economic benefit for affected sources that will not have to wait for permit revisions before making minor changes.

(b) Kentucky: No comments were received during the notice of intent public comment period regarding economic impact in Kentucky. However, the cabinet anticipates that there will be an economic benefit for affected sources that will not have to wait for permit revisions before making minor changes.

7. Assessment of alternative methods; reasons why alternatives were rejected: The cabinet is required under KRS 224.10-100 to prescribe administrative regulations for the prevention, abatement, and control of air pollution; therefore, no alternatives to permitting these sources were considered.

8. Assessment of expected benefits:

(a) From the public comments received, there will be no appreciable effect on public health and the environment as a result of the proposed administrative regulation.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on environment and public health would result if either the proposed administrative regulation were not implemented or the provisions of existing administrative regulation retained.

(c) If detrimental effect would result, explain detrimental effect: A detrimental effect would result because, in the absence of permitting requirements, the emissions of air pollutants from the 2,500 existing sources, as well as future construction sources, would not be adequately controlled.

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

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

10. Any additional information or comments: The requirements and procedures in the proposed administrative regulation were previously contained in 401 KAR 50:035 together with similar provisions for major, conditional major, and synthetic minor sources. 401 KAR 50:035 is being repealed in a separate action (401 KAR 50:071), and its provisions are being promulgated in individual administrative regulations for each source type which are being moved to a new chapter of Kentucky Administrative Regulations, 401 KAR Chapter 52. Emphasis has been given to separating the requirements for minor source permitting from those for major, conditional major, and synthetic minor sources with which minor source requirements have often been confused. In addition to updating the existing provisions to agree with current U.S. EPA guidelines and clarifying and simplifying the regulatory language to comply with the cabinet's initiative on plain language drafting, the proposed administrative regulation includes the following revisions: The requirement for minor sources subject to a federal requirement to apply for a Title V permit by December 14, 2000, has been removed; the requirement for all other minor sources to apply for a new source-wide permit by December 14, 2000 has been removed; a provision has been added that will require sources that do not have a source-wide permit to apply for a source-wide permit the next time a (fragmented) permit is due for renewal rather than by a specific deadline; a provision which will allow all minor sources to make any change that does not qualify as a reconstruction or increase its PTE by 25 % or more of a major source threshold as soon as it submits an application has been added; the life of a state-origin permit has been changed from 5 years to 10 years; a 1.5 tpy threshold for combined HAPs has been added to the insignificant activity criteria; all references to 401 KAR 63:021 and 401 KAR 63:022 (repealed state air toxics administrative regulations) have been removed; a provision for the cabinet to maintain a list of "generally applicable requirements" and make it available on request has been added; the emergency provisions have been extended to cover sources with state-origin permits rather than just sources with Title V permits; entry requirements for sources with state-origin permits have been included in the proposed administrative regulation; an existing existing permit in 401 KAR 63:021 which requires all permitted sources to submit annual emission certification statements to the cabinet, has been revised to require only sources who are located in ozone nonattainment areas and who emit or have the potential to emit 25 tpy or more of NOx or VOC to submit this certification statement; and a provision has been added to cover the temporary replacement of emission units that are used to replace units removed for maintenance or other valid reasons.

11. TIERING: Is tiering applied? No. The provisions of the proposed administrative regulation apply equally to all sources throughout the Commonwealth that meet the applicability determination of Section 1 of the proposed administrative regulation. Therefore, tiering is not applied in the proposed administrative regulation. However the proposed administrative regulation does provide tiering within the cabinet for permitting processes. Therefore, it is anticipated that there will be no more application and compliance requirements placed on larger sources that are required to obtain federally enforceable permits.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation does not
affect any known unit, part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to any known aspect or service of local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)

401 KAR 52:050. Permit application forms.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Part 51, Part 70, 42 USC 7401 to 7671q
STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Part 51, Part 70, 42 USC 7401 to 7671q
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation incorporates by reference the application forms used to permit air contaminant sources in Kentucky.

Section 1. Applicability. "Forms DEP7007A1 to DD, Permit Application to Construct or Operate an Air Contaminant Source", shall be required to apply for a permit, permit revision, or permit renewal pursuant to 401 KAR 52:020, Section 4(1); 401 KAR 52:030, Section 4(1); or 401 KAR 52:040, Section 4(1), as applicable. "Forms DEP7007A1 to DD, Permit Application to Construct or Operate an Air Contaminant Source", is incorporated by reference in Section 2 of this administrative regulation.

Section 2. Incorporation by Reference. (1) "Forms DEP7007A1 to DD, Permit Application to Construct or Operate an Air Contaminant Source", June 2000, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;
(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-0397;
(c) Bowling Green Regional Office, 1508 West Avenue, Bowling Green, Kentucky 42104, (270) 746-7475;
(d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 292-8411;
(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 496-8022;
(f) London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 678-0157;
(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 867-7304; and
(h) Paducah Regional Office, 4500 Clarkes River Road, Paducah, Kentucky 42003, (270) 898-8486; or

(3) This material is available:

(a) On request by contacting the Division for Air Quality, Permit Support Section, 803 Schenkel Lane, Frankfort, Kentucky 40601, phone (502) 573-3382, Email: NRREC.DEPAirPermits@mail.state.ky.us, or fax (502) 573-3787;

(b) On the Internet at: www.state.ky.us/nrrec/dep/daq/prb/daqapp.htm.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) workdays prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation.

Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis

(1) Type and number of entities affected: The proposed administrative regulation incorporates by reference the permit forms, which air contaminant sources are required to use when applying for permits or permit revisions to construct and operate in the Commonwealth of Kentucky. All sources in Kentucky who are subject to the proposed administrative regulations, 401 KAR 52:020, 401 KAR 52:030, or 401 KAR 52:030 will be required to use these forms.

(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 during the notice of intent public comment period concerning added costs or savings for the cost of living and employment in the geographical area where this administrative regulation will be implemented. The cabinet foresees no new impact, since the proposed administrative regulation merely updates the 1993 permit forms incorporated by reference in 401 KAR 50:034, which is being repealed in a separate action (401 KAR 50:071).

(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 during the notice of intent public comment period concerning added costs or savings for doing business in the geographical area where this administrative regulation will be implemented. The cabinet foresees no new impact, since the proposed administrative regulation merely updates the 1993 permit forms incorporated by reference in 401 KAR 50:034, which is being repealed in a separate action (401 KAR 50:071).

To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No comments were received during the notice of intent public comment period regarding an increase or decrease in the costs of compliance, reporting, and paperwork requirements. However, since the intent to be heard at the proposed administrative regulation have already been implemented in an existing administrative regulation that is being repealed in a separate action (401 KAR 50:071), the cabinet anticipates no increase or decrease in costs.

2. Second and subsequent years: No comments were received during the notice of intent public comment period regarding an increase or decrease in the costs of compliance, reporting, and paper-
work requirements for second and subsequent years. However, since the provisions of the proposed administrative regulation have already been implemented in an administrative regulation that is being repealed in a separate action (401 KAR 50:071), the cabinet anticipates no additional increase or decrease in costs.

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Since the provisions of the proposed administrative regulation have already been implemented in an administrative regulation that is being repealed in a separate action (401 KAR 50:071) there are no new direct or indirect costs or savings during the first year for the cabinet.
2. Continuing costs or savings: There are no new continuing costs or savings associated with the proposed administrative regulation.
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: The reporting and paperwork requirements will continue to be absorbed in the division's operating budget.

(4) Assessment of anticipated effect on state and local revenues:
There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will continue to be used to implement and enforce the provisions of the proposed administrative regulation.

(6) To the extent available from the public comments received, economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: No comments were received during the notice of intent public comment period regarding economic impact in the geographical area in which the proposed administrative regulation will be implemented, and the cabinet does not foresee any new impact.
(b) Kentucky: No comments were received during the notice of intent public comment period regarding the economic impact in Kentucky with the implementation of the proposed administrative regulation, and the cabinet does not foresee any new impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered, since the proposed administrative regulation merely updates the existing permit form, which was incorporated by reference in an administrative regulation that is being repealed in a separate action (401 KAR 50:071).

(8) Assessment of expected benefits:
(a) Identity effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The proposed administrative regulation incorporates by reference the permit form that is required for the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is in effect. Specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-): There is no known effect on current revenues.
Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)

401 KAR 52:060. Acid rain permits.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Parts 72 to 78, 42 USC 7651 to 7651(f)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Parts 72 to 78, 42 USC 7651 to 7651(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation incorporates
Section 1. Applicability. This administrative regulation shall apply to affected sources and affected units under the Acid Rain Program, pursuant to 42 USC 7651 to 7651o. Applicability determination is set forth under 40 CFR 72.6.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) 40 CFR Part 72, "Permits Regulation", as published in the Code of Federal Regulations, 40 CFR Parts 72 to 80, July 1, 1999;
(b) 40 CFR Part 73, "Sulfur Dioxide Allowance System", as published in the Code of Federal Regulations, 40 CFR Parts 72 to 80, July 1, 1999;
(c) 40 CFR Part 74, "Sulfur Dioxide Opt-Ins", as published in the Code of Federal Regulations, 40 CFR Parts 72 to 80, July 1, 1999;
(d) 40 CFR Part 75, "Continuous Emission Monitoring", as published in the Code of Federal Regulations, 40 CFR Parts 72 to 80, July 1, 1999;
(f) 40 CFR Part 77, "Excess Emissions", as published in the Code of Federal Regulations, 40 CFR Parts 72 to 80, July 1, 1999;
(g) 40 CFR Part 78, "Appeal Procedures for Acid Rain Program", as published in the Code of Federal Regulations, 40 CFR Parts 72 to 80, July 1, 1999;
(h) "Acid Rain Program Forms", U.S. EPA, January 2000; and
(i) "OTC NO, Budget Program Forms", U.S. EPA, August 1999.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:
(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;
(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2057;
(c) Bowling Green Regional Office, 1506 Westen Avenue, Bowling Green, Kentucky 42104, (270) 746-7475;
(d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (606) 292-6411;
(e) Hazard Regional Office, 223 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;
(f) London Regional Office, 875 S. Main Street, London, Kentucky 40471, (606) 878-0157;
(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 677-7256; and
(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (270) 898-8488.


JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) workdays prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS
Contact person: Millie Ellis
(1) Type and number of entities affected: This administrative regulation incorporates by reference, the federal acid rain provisions of 40 CFR Parts 72 to 76, as published in the Code of Federal Regulations, 40 CFR Parts 72 to 80, July 1, 1993, and the acid rain application forms required by 40 CFR 72.72(b)(4). The provisions of the federal Acid Rain Program apply to affected sources and affected units as set forth in 40 CFR 72.6.
(2) Direct and indirect costs or savings on the:
(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. There are no costs or savings beyond those described in the federal regulations.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. This administrative regulation does not affect the cost of doing business in the geographical area where it will be implemented beyond the costs described in the federal rulemaking.
(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
1. First year following implementation: There are no compliance, reporting, or paperwork requirements beyond those required in the federal rulemaking.
2. Second and subsequent years: There are no compliance, reporting, or paperwork requirements beyond those described in the federal rulemaking.
(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.
2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal rulemaking.
(4) Assessment of anticipated effect on state and local revenues:
There are no anticipated effects on local and state revenues.
(5) Source of revenue to be used for implementing and enforcing administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.
(6) To the extent available from the public comments received, economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.
(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.
(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation is being promulgated in order for the cabinet's delegation of authority from the U.S. EPA to implement and enforce the federal Acid Rain Program to continue.
(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.
VOLUME 27, NUMBER 2 – AUGUST 1, 2000

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulations, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulations.

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

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: In a related action, the cabinet is promulgating 401 KAR 50:071 to repeal 401 KAR 50:033, Acid rain phase II application forms, and 401 KAR 50:072, Acid rain permit. Promulgation of the proposed administrative regulations is necessary in order for the cabinet's delegation of authority from the U.S. EPA to implement and enforce the federal Acid Rain Program to continue.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal Acid Rain Program, 40 CFR Parts 72 to 78, as published in the July 1, 1999, Code of Federal Regulations. There is no tiering by the state beyond that contained in the federal rule-making.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR Parts 72 to 78 and 42 USC 7651 to 7661(f).

2. State compliance standards. The state compliance standards are found at KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires reductions in annual emissions of sulfur dioxide to reduce the adverse effects of acid deposition.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter requirements or additional responsibilities or requirements than those required by the federal rules.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not 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? Yes.

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation does not affect any known unit, part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to any known aspect or service of local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (New Administrative Regulation)

401 KAR 52:070. Registration of designated sources.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110,
224.20-120

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100,
224.20-110, 224.20-120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100
requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. There is no federal mandate for this administrative regulation. This administrative regulation provides for the registration of designated air contaminant sources in Kentucky.

Section 1. Applicability. This administrative regulation shall apply to:

(1) Sources that emit or have the potential to emit (PTE):
(a) Two (2) tpy or more but less than ten (10) tpy of a HAP;
(b) Five (5) tpy or more but less than twenty-five (25) tpy of combined HAPs; or
(c) For other regulated air pollutants:
(1) Ten (10) tpy or more but less than twenty-five (25) tpy of a pollutant subject to an applicable requirement that does not specify the method for achieving compliance;
(2) Ten (10) tpy or more but less than one hundred (100) tpy of a pollutant subject to an applicable requirement that clearly specifies the method of compliance;
(3) Ten (10) tpy or more but less than one hundred tons per year of a pollutant for which there is no applicable requirement; or
(2) Sources that emit less than the cutoffs in subsection (1) of this section but are subject to an applicable requirement in 40 CFR Parts 60, 61, or 63.

Section 2. Exemptions. (1) The following sources shall be exempt from this administrative regulation:
(a) Sources that are required to be permitted under 401 KAR 52:020, 401 KAR 52:030, or 401 KAR 52:040;
(b) Sources that emit only nonprocess fugitive emissions;
(c) Sources subject only to the requirements of 40 CFR 60.530 to 60.539b, Standards of Performance for New Residential Wood Heaters;
(d) Sawmills that produce only rough-cut or dimensional lumber from logs and which have a rated capacity of 5,000 board feet per hour or less, if the source does not include an indirect heat exchanger or waste wood burner subject to an applicable requirement in 40 CFR Part 60 or 401 KAR Chapters 59 or 61.
(2) The following activities shall be exempt from this administrative regulation:
(a) Vehicles used for the transportation of passengers or freight;
(b) Publicly-owned roads;
(c) Asbestos demolition or renovation operations subject only to an applicable requirement in 401 KAR Chapter 58;
(d) Open burning covered under 401 KAR 63:005; and
(e) Activities or emission units contained in the "List of Trivial Activities", which the cabinet shall maintain and make available:
1. On request by calling the Division for Air Quality, Permit Support Section, at (502) 573-3362; and

Section 3. General Provisions. (1) Sources that are subject to this administrative regulation shall:
(a) Register with the cabinet;
(b) Comply with all applicable requirements; and
(c)1. Allow authorized representatives of the cabinet to enter the premises at all reasonable times:
(a) To access and copy any records required by this administrative regulation;
(b) To inspect any facility, equipment (including air pollution control
equipment), practice, or operation; and

c. To sample or monitor substances or parameters to determine compliance with applicable requirements.

2. Reasonable times shall be:
   a. During all hours of operation;
   b. During normal office hours; or
   c. During an emergency.

(2) Sources that are located in ozone nonattainment areas and emit or have the potential to emit twenty-five (25) ton or more of VOC or NOx shall submit an annual emission certification as follows:
   a. During the first quarter of each calendar year, the cabinet shall survey these sources to determine their actual emissions during the preceding calendar year and the source shall:
      1. Make the appropriate additions or corrections to the survey;
      2. Return the updated survey to the cabinet by the date indicated in the cover letter. For this response:
         a. Each day past the deadline that a source fails to submit the required information shall be a separate violation of this administrative regulation;
   b. If no response is received by the deadline, the cabinet shall estimate the actual emissions based on prior history and other relevant information that is available; and
   (b) Failure of the cabinet to notify a source under this subsection shall not relieve the source from the obligation to submit an emissions statement.

(3) The cabinet may require registered sources to demonstrate compliance with applicable requirements.

Section 4. When to Register. (1) New sources. Sources that commence construction after the effective date of this administrative regulation shall submit a registration form to the cabinet prior to commencing construction.

(a) A source may commence construction immediately upon submittal of a complete registration form.

(b) The cabinet shall review the registration form and shall notify the source within sixty (60) days of receipt of:
   1. A permit or registration is not required;
   2. The registration as submitted is accepted; or
   3. The source is required to obtain a permit and is required to take the specified action.

(2) Existing registered sources. Sources that are registered with the cabinet and plan to reconstruct or modify shall comply with the following:

(a) Sources that remain eligible for registration after the change shall:
   1. Submit a registration form to the cabinet prior to commencing reconstruction or modification; and
   2. May commence reconstruction or modification immediately upon submittal of the registration form.

(b) Sources that are not eligible for registration after the change shall:
   1. Submit an application under 401 KAR 52:020, 401 KAR 52:030, or 401 KAR 52:040 as applicable; and
   2. Obtain the appropriate permit prior to commencing reconstruction or modification.

Section 5. Registration at the Cabinet’s Request. (1) Upon request by the cabinet, a source that has commenced construction or operation without a permit or registration shall submit a registration form within thirty (30) days of request.

(2) The cabinet shall review the registration form and within sixty (60) days of receipt shall:

(a) Notify the source that a permit or registration is required; or

(b) If a permit or registration is required, shall issue a notice of violation and specify the action the source is required to take.

Section 6. Rescinding an Existing Permit. (1) A source that has a permit and is eligible for registration may request that the cabinet rescind its permit by submitting:

(a) A complete registration form; and

(b) A letter requesting the cabinet to rescind the permit.

(2) The cabinet shall review the request and shall notify the source within sixty (60) days of receipt of:

(a) The request is approved and the permit has been rescinded; or

(b) The request is denied and shall specify the reason for denial and any action the source is required to take.

Section 7. How to Register. (1) Registration shall be made using:

(a) Form DEP7039A, which is incorporated by reference in Section 8 of this administrative regulation; or

(b) Form DEP7105 for gasoline dispensing facilities which are subject to 401 KAR 59:174.

(2) Forms DEP7039A and DEP7105 may be obtained by contacting the Kentucky Division for Air Quality, Emissions Inventory Section, 803 Schenkel Lane, Frankfort, Kentucky 40601, phone (502) 573-3382, FAX (502) 564-8543.

(3) Completed registration forms shall be submitted to Kentucky Division for Air Quality, Attn: EIS Section, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Section 8. Incorporation by Reference. (1) "Form DEP7039A, Minor Source Registration", May 2000, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2037;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (270) 746-7475;

(d) Florence Regional Office, 8020 Veterans Memorial Drive, Suite 110, Florence, Kentucky 41042, (859) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 875 S. Main Street, London, Kentucky 40741, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (270) 887-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (270) 886-9438.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) workdays prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation.

Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis

(1) Type and number of entities affected: The requirement for sources that have emissions above a certain de minimis level to register with the cabinet was first implemented in a 1997 revision to the division's permitting regulation, 401 KAR 50:035. The provision that
allows the cabinet to requested information from a source that is not permitted or registered was implemented in 1979 in 401 KAR 50:030. These regulations are being repelled in a separate action, 401 KAR 50:071, and the regulatory provisions, which implement these requirements, have been rewritten and clarified in the proposed administrative regulation to conform to the cabinet's initiative on plain language drafting. There are currently approximately 125 sources in Kentucky who are already subject to the cabinet's existing registration requirement. New sources will become subject to the registration requirement as they are constructed and commence operation.

(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 during the notice of intent public comment period concerning added costs or savings for the cost of living and employment in the geographical area where this administrative regulation will be implemented, and the cabinet foresees none.
(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments were received during the notice of intent public comment period concerning added costs or savings for doing business in the geographical area where this administrative regulation will be implemented. Nonetheless, the cabinet anticipates that there will continue to be substantial savings to affected sources by not having to apply for a permit.
(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
1. First year following implementation: No comments were received during the notice of intent public comment period regarding an increase or decrease in the costs of compliance, reporting, and paperwork requirements. However, since the requirements of the proposed administrative regulation have already been implemented in existing administrative regulations, the cabinet anticipates no additional increase or decrease in costs.
2. Second and subsequent years: No comments were received during the notice of intent public comment period regarding an increase or decrease in the costs of compliance, reporting, and paperwork requirements for second and subsequent years. However, since the provisions of the proposed administrative regulation have already been implemented in administrative regulations that are being repealed in a separate action (401 KAR 50:071), the cabinet anticipates no additional increase or decrease in costs.

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. Direct costs or savings: The provisions of the proposed administrative regulation have already been implemented in administrative regulations that are being repealed in separate action (401 KAR 50:071) there are no new direct or indirect costs or savings during the first year for the cabinet. The cost of processing registration forms and maintaining an emissions inventory for sources subject to the proposed administrative regulation continue to be offset by the reduction in permits that would be issued by the cabinet if the registration program were not in place.
2. Continuing costs or savings: The cost of processing registration forms and maintaining an emissions inventory for sources subject to this administrative regulation continue to be offset by the reduction in permits that will be issued by the cabinet in subsequent years.
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: The reporting and paperwork requirements will continue to be absorbed in the division's operating budget.

(4) Assessment of anticipated effect on state and local revenues:
There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will continue to be used to implement and enforce this administrative regulation.

(5) To the extent available from the public comments received, economic impact, including effects of economic activities arising from administrative regulation, on:
(a) Geographical area in which administrative regulation will be implemented: No comments were received during the notice of intent public comment period regarding economic impact in the geographical area where the proposed administrative regulation will be implemented, and the cabinet does not foresee any additional impact.
(b) Kentucky: No comments were received during the notice of intent public comment period regarding the economic impact in Kentucky with the implementation of the proposed administrative regulation, and the cabinet does not foresee any additional impact.

(7) Assessment of alternative methods: reasons why alternatives were rejected: The only alternative rule permitting to permit the subject sources or to allow them to operate with no registration or reporting requirements. The first alternative was considered too expensive and cumbersome for both sources and the cabinet. Furthermore, the cabinet has determined that permitting of these sources is not essential for protection of the environment and public health, and another method of assuring compliance is implemented. The second alternative was considered too expensive and irresponsible with regard to the cabinet's duty to protect the environment and public health.

(8) Assessment of expected benefits:
(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Prior to implementation of the registration process in 1997, minor sources that emitted less than 25 tons of pollutants per year were largely ignored. These sources are now monitored, surveyed, and encouraged to reduce emissions. Cabinet's Kentucky Code and the University of Kentucky's Small Business Assistance Program established under 42 USC 7661f. This benefit will continue with the implementation of the proposed administrative regulation.
(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on the environment and public health would result if the existing registration program were discontinued. The existing registration program in the proposed administrative regulation is an alternative to the existing registration program.
(c) If detrimental effect would result, explain detrimental effect:
The registration program allows the cabinet to exercise an acceptable degree of oversight for registered sources and thus ensure that they comply with applicable requirements. If the cabinet's oversight were discontinued, the amount of air pollution emitted throughout Kentucky would be higher, as would the incidence of health problems related to the increased air pollution.

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

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The administrative regulation is not in conflict.
(10) Any additional information or comments: While it is federally mandated, the cabinet has a state mandate under KRS 224.10-100 to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The proposed administrative regulation meets the statutory mandate by allowing the cabinet to continue tracking emissions from small sources who in aggregate contribute significantly to air pollution in Kentucky. The proposed administrative regulation continues to provide a means for the cabinet to enforce existing regulatory provisions for these sources to comply with applicable requirements.

(11) TIERING: Is tiering applied? Yes. The proposed administrative regulation provides tiering within the cabinet's permitting program in that sources whose emissions fall within certain specified limits are required to register rather than to obtain a permit, and sources that emit below the specified levels are not required to register or to obtain a permit. Also, sources who are subject to administrative regulations in which the method of compliance is clearly specified are allowed to register rather than being required to obtain a permit.

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. This administrative regulation could potentially affect any unit, part, or division of local government, which operates a source that meets the applicability determination in Section 1; however, there are none currently identified.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation could potentially affect any aspect or service of local government, which operates a source that meets the applicability determination in Section 1; however, there are none currently identified.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

   Revenues (+/-): There is no known effect on current revenues.

   Expenditures (+/-): There is no known effect on current expenditures.

   Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)

401 KAR 52:080. Regulatory limit on potential to emit.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7661 to 7661(f)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 42 USC 7661 to 7661(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. There is no federal mandate for this administrative regulation. This administrative regulation allows sources whose actual emissions remain less than fifty (50) percent of the major source threshold to avoid the Title V permitting process.

Section 1. Applicability. (1) This administrative regulation shall apply to sources whose potential to emit (PTE) equals or exceeds a major source threshold for Title V and:

(a) Whose actual emissions during any consecutive twelve (12) month period of operation after January 1, 1996, are less than fifty (50) percent of the major source thresholds for Title V;

(b) Who commenced construction on or before December 14, 1995; and

(c) Who do not have a Title V or conditional major permit.

(2) For purposes of this administrative regulation, a covered source shall be a source whose application for coverage under this administrative regulation has been approved by the cabinet.

Section 2. General Provisions. (1) Covered sources shall not be required to obtain a Title V or conditional major permit, except as provided in:

(a) Subsections (3) and (4) of this section; and

(b) Section 4(2) of this administrative regulation.

(2) Covered sources shall:

(a) Restrict actual emissions during each consecutive twelve (12) month period of operation after January 1, 1996, to less than fifty (50) percent of the major source thresholds for Title V;

(b) Comply with the applicable notification, recordkeeping, and reporting requirements of this administrative regulation;

(c) Allow authorized representatives of the cabinet to enter the premises where a source is located or where records are kept:

1. During normal office hours;

2. During all hours of operation; or

3. During periods of emergency;

(d) Demonstrate compliance with applicable requirements if so requested by the cabinet;

(e) Obtain a state-origin permit if required to do so under 401 KAR 52:040; and

(f) Operate in compliance with all applicable requirements.

(3) If a covered source receives a notice of violation for noncompliance with any provision in subsection (2)(a) to (d) of this section:

(a) Within six (6) months after receiving the notice of violation, the source shall submit an application for a Title V permit under 401 KAR 52:020 or a conditional major permit under 401 KAR 52:030; and

(b) Each incidence of noncompliance shall be a separate violation under Title V or conditional major permit issued to the source.

(4) If a covered source is required to obtain a Title V permit by the U.S. EPA, the source shall submit an application under 401 KAR 52:020 within twelve (12) months after publication of the final federal rulemaking.

(5) Sources that meet the applicability criteria for this administrative regulation may voluntarily apply for a Title V or conditional major permit.

Section 3. Notification Requirements. (1) To apply for coverage under this administrative regulation, sources shall contact the Division for Air Quality, Emissions Inventory Section, at (502) 573-3382 and request coverage under this administrative regulation.

(a) If the source is already entered in the KyEIS, the division shall provide a printout of the source's current emissions data and a copy of "Form DEP7008B, Application For Coverage Under 401 KAR 52:080 For Sources Currently In The KyEIS", which is incorporated by reference in Section 12(1)(a) of this administrative regulation. The source shall:

1. Verify, correct, and supplement the emissions data as instructed in the form; and

2. Return the completed form with required attachments to the address indicated on the form.

(b) If the source is not in the KyEIS, the division will provide the source with a copy of "Form DEP7008B, Application For Coverage Under 401 KAR 52:080 For Sources Not Currently In The KyEIS", which is incorporated by reference in Section 12(1)(b) of this administrative regulation. The source shall:

1. Provide source information and emissions data as specified in the instructions to the form; and

2. Return the completed form with any required attachments to the address indicated on the form.

(2) The cabinet shall review the completed form and attachments and shall notify the source within sixty (60) days after receipt that the source:

(a) Is approved for coverage, or

(b) Is not approved for coverage. If the source is not approved for coverage, the cabinet shall explain the reason why and specify the action the source is required to take.

Section 4. Reconstruction or Modification. Prior to making a change, a covered source that plans to reconstruct or modify shall comply with this section.

(1) If the source plans to make a change that will not cause its actual emissions during a consecutive twelve (12) month period of operation to be fifty (50) percent or more of a major source threshold for Title V:

(a) The source shall:

1. Contact the Division for Air Quality, Emissions Inventory Section, at (502) 573-3382 and request a copy of Form DEP7008A; and

2. Return the completed form with any required attachments to the address indicated on the form.

(b) The source may make the change immediately upon submittal of Form DEP7008A with any required attachments.

(c) The cabinet shall review the completed form and attachments and shall notify the source within sixty (60) days after receipt that the source:

1. Continues to be approved for coverage; or

2. Is no longer approved for coverage. If the source is no longer approved for coverage, the cabinet shall explain the reason why and specify the action the source is required to take.

(2) If the source plans to make a change that will cause its actual emissions during any consecutive twelve (12) month period of operation to be fifty (50) percent or more of a major source threshold for Title V, the source shall:

(a) Contact the Division for Air Quality, Permit Support Section, at phone (502) 573-3382 or fax (502) 573-3787 and inform the division of
its intent;
(b) Submit an application for a Title V permit under 401 KAR 52:020 or a conditional major permit under 401 KAR 52:030; and
(c) Comply with the requirements of this administrative regulation until the source is issued a Title V or conditional major permit.

Section 5. General Recordkeeping Requirements. (1) Covered sources shall maintain records as specified in this section and in the applicable provisions of Sections 6 to 10 of this administrative regulation:
(2) Records shall be sufficient to determine actual emissions for each emission unit and shall be:
(a) Maintained for a period of five (5) years from date of the last entry; and
(b) Made available on request for inspection by the cabinet or the U.S. EPA.
(3) If groups of similar units are connected in series, records may be kept for the group rather than each unit.
(4) Records shall:
(a) Be summarized each month and added to the previous eleven months to provide a total of actual emissions for each consecutive twelve (12) month period; and
(b) Demonstrate that the source's actual emissions during each consecutive twelve (12) month period are less than fifty (50) percent of the major source thresholds; and
(c) Contain additional information which the cabinet may request.

Section 6. Recordkeeping for Sources that Use Coatings, Solvents, Inks, or Adhesives. These sources shall maintain the following records:
(1)(a) A current list of all coatings, solvents, inks, and adhesives in use, with the following information for each:
1. Manufacturer and brand;
2. Product name or CAS number;
3. VOC content in grams per liter or pounds per gallon; and
4. HAPs content in grams per liter or pounds per gallon.
(b) In lieu of the records required in paragraph (a) of this subsection, a source may substitute the following:
1. Manufacturer's product specifications;
2. Material VOC content reports; or
3. Laboratory analyses that provide the same information;
(2) A description of all equipment used during and after coating or solvent application, including:
(a) Type;
(b) Make and model;
(c) Maximum design process rate or throughput;
(d) Type and description of control devices; and
(e) Description of application and drying methods used;
(3) A monthly log of the amount of each coating, solvent, ink, and adhesive used, including solvents used for purging, clean-up, and surface preparation;
(4) All purchase orders, invoices, and other documents that support the information in the monthly log; and
(5) Additional information which the cabinet may request.

Section 7. Recordkeeping for Sources that Use Organic Liquid Storage Units. These sources shall maintain the following records:
(1) A monthly log identifying the name and amount of liquid stored and used; and
(2) Information on the tank design and specifications, including control equipment.

Section 8. Recordkeeping for Sources that Have Combustion Emissions. These sources shall maintain the following equipment and fuel usage records:
(1) Description of equipment type, make, and model;
(2) Maximum design rate for both process and control device, or maximum power input and output;
(3) Minimum operating temperature and residence time of thermal oxidizers;
(4) All source test information;
(5) Control device efficiency, obtained from manufacturer's specifications or stack test;
(6) A monthly log of hours of operation, fuel type and usage, fuel heating value, and percent sulfur for fuel oil and coal. For nonfossil fuels, heating value shall be expressed in BTU/pound or BTU/gallon; and
(7) Additional information which the cabinet may request.

Section 9. Recordkeeping for Sources that Use Noncombustion Emission Control Devices. These sources shall maintain the following records:
(1) Information on equipment type and description, make and model, and identification of emission units served by each control device;
(2) Information on equipment design, including the following as applicable:
(a) Pollutants controlled;
(b) Control device efficiency for each pollutant, taken from manufacturer's specifications or stack test;
(c) Maximum design or rated capacity for both process and control device;
(d) Inlet and outlet temperatures;
(e) Concentrations of each controlled pollutant;
(f) Catalyst data, including type, material, life, volume, space velocity, and ammonia injection rate and temperature;
(g) Baghouse data, including design cleaning method, fabric material, flow rate, and air-to-cloth ratio;
(h) Electrostatic precipitator data, including number of fields, cleaning method, and power input;
(i) Scrubber data, including type, design, sorbent type, pressure drop, liquid and gas flow rates, and pH;
(j) Other design data if appropriate; and
(k) All source test information;
(3) A monthly log of hours of operation, including notes on:
(a) Control equipment breakdowns;
(b) Upsets;
(c) Repairs;
(d) Maintenance; and
(e) Other deviations from design parameters; and
(4) Additional information which the cabinet may request.

Section 10. Recordkeeping for Sources Not Described in Sections 6 to 9 of this Administrative Regulation. These sources shall maintain the following records:
(1) Information describing the process and equipment including:
(a) Equipment type and description;
(b) Make and model;
(c) Maximum design process rate or throughput; and
(d) Type and description of control devices including flow rates, temperature, and control device efficiency for each pollutant.
(2) A monthly log of the following:
(a) Hours of operation;
(b) Amount and description of each raw material used;
(c) Amount and production rate of each product produced; and
(d) Purchase orders, invoices, and other documents that support the monthly log; and
(5) Additional information which the cabinet may request.

Section 11. Reporting Requirements. At the beginning of each calendar year, the cabinet shall mail a printout of the latest emission inventory data in the KyEIS to each covered source. On receiving the printout the source shall:
(1) Update the emissions information;
(2) Certify the report; and
(3) Return the report to the cabinet on or before the date indicated in the cover letter.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Form DEP70008A, Application for Coverage Under 401 KAR 52:080 for Sources Currently In The KyEIS;" and
(b) "Form DEP70008B, Application for Coverage Under 401 KAR 52:080 for Sources Not Currently In The KyEIS;"
(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:
(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort,
Kentucky 40601, (502) 573-9392;
(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland,
Kentucky 41105, (606) 290-2067;
(c) Bowling Green Regional Office, 1508 Western Avenue, Bowling
Green, Kentucky, 42104, (270) 746-7475;
(d) Florence Regional Office, 8020 Veterans Memorial Drive,
Suite 110, Florence, Kentucky, 41042, (859) 292-6411;
(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard,
Kentucky, 41701, (606) 335-0022;
(f) London Regional Office, 575 S. Main Street, London, Kentucky,
40741, (606) 878-0157;
(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite
700, Owensboro, Kentucky, 42303, (270) 687-7304;
(h) Paducah Regional Office, 4500 Clarks River Road, Paducah,
Kentucky, 42003, (270) 898-8468; and
(i) Frankfort Regional Office, 643 Teton Trail, Suite B, Frankfort,
Kentucky 40601, (502) 564-3538.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regu-
lation is scheduled for August 22, 2000, at 3 p.m. in Conference Room
of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.
Individuals who intend to be heard at this hearing shall notify this agency in writing by August 22, 2000, five (5) workdays prior to the hearing,
of their intent to attend. This hearing is open to the public. Any person
who wishes to be heard will be given an opportunity to comment on the
administrative regulation. A transcript of the hearing will be made.
If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written
comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments
on the administrative regulation, to the contact person listed below. Written comments must be received before ad-
journment of the hearing. The hearing facility is accessible to persons
with disabilities. Requests for reasonable accommodations, including
auxiliary aids and services necessary to participate in the hearing,
may be made to the contact person at least five (5) workdays prior to
the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Devel-
opment Section, Division for Air Quality, 803 Schenkel Lane, Frank-
fort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-
3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis

(1) Type and number of entities affected: The proposed adminis-
trative regulation implements a permit-by-rule that allows sources,
which would otherwise be classified as major sources, to be classified
as minor sources and thus avoid the Title V permitting process if their
actual emissions remain less than 50% of the major source thresh-
olds. There are currently about 80 sources in Kentucky affected by this
rule. The proposed administrative regulation replaces 401 KAR 50:
031, which is being repealed in a separate action (401 KAR
52:07), and extends the applicability to cover qualifying sources that
have submitted skeleton applications under 401 KAR 50:035, made
effective February 12, 1997. It will also cover sources that should have
submitted skeleton or comprehensive applications when the Title V
Program began but somehow fell through the cracks and went unde-
tected until later. When these sources are found, either through self-
disclosure or other means, they are in violation and subject to en-
forcement for failure to submit an application, but they may still avoid
the Title V permitting process by applying for coverage under this
administrative regulation.

(2) Direct and indirect costs or savings on the:
(a) Cost of living and employment in the geographical area in
which the administrative regulation will be implemented, to the extent
available from the public comments received. No comments were
received during the notice of intent public comment period concerning
added costs or savings for the cost of living or employment in the
geographical area where this administrative regulation will be imple-
mented, and the cabinet foresees none.
(b) Cost of doing business in the geographical area in which the
administrative regulation will be implemented, to the extent available
from the public comments received. No comments were received
during the notice of intent public comment period concerning added
costs or savings for doing business in the geographical area where
this administrative regulation will be implemented. Nonetheless, the
cabinet anticipates that there will continue to be substantial savings to
affected sources who will not have to apply for a Title V or conditional
major permit.
(c) To the extent available from the public comments received,
compliance, reporting, and paperwork requirements, including factors
increasing or decreasing costs (note any effects upon competition) for
the:
1. First year following implementation: No comments were re-
cived during the notice of intent public comment period regarding an
increase or decrease in the costs of compliance, reporting, and
paperwork requirements. However, since the requirements of the pro-
posed administrative regulation have already been implemented in an
existing administrative regulation that is being repealed in a separate
action (401 KAR 50:071), the cabinet anticipates no additional in-
crease or decrease in costs.
2. Second and subsequent years: No comments were received
during the notice of intent public comment period regarding an
increase or decrease in costs of compliance, reporting, and paperwork
requirements for second and subsequent years. However, since the
provisions of the proposed administrative regulation have already
been implemented in an administrative regulation that is being re-
pealed in a separate action (401 KAR 50:071), the cabinet anticipates
no additional increase or decrease in costs.

(3) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: The cost of processing application forms and moni-
toring the emissions of sources subject to the proposed administrative
regulation is more than offset by the reduction in permits that would be
issued by the cabinet in subsequent years, if this permit-by-rule were
not in place.
2. Continuing costs or savings: The cost of processing application
forms and monitoring the emissions of sources subject to the pro-
posed administrative regulation is more than offset by the reduction in
permits that would be issued by the cabinet in subsequent years, if
this permit-by-rule were not in place.
3. Additional factors increasing or decreasing costs: There are no
additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: The reporting and
paperwork requirements will continue to be absorbed in the division's
operating budget.

(4) Assessment of anticipated effect on state and local revenues:
There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and en-
forcement of administrative regulation: The division's operating budget
will continue to be used to implement and enforce this administrative
regulation.
(6) To the extent available from the public comments received,
economic impact, including effects of economic activities arising from
administrative regulation, on:
(a) Geographical area in which administrative regulation will be
implemented: No comments were received during the notice of intent
public comment period regarding economic impact in the geographical
area in which the proposed administrative regulation will be imple-
mented, and the cabinet does not foresee any additional impact.
(b) Kentucky: No comments were received during the notice of
intent public comment period regarding economic impact in Kentucky,
and the cabinet does not foresee any additional impact.

(7) Assessment of alternative methods; reasons why alternatives
were rejected: The only available alternative (to Title V permitting)
would be to issue conditional major permits to each of the sources that
are subject to the existing administrative regulation. This would cost
nearly as much in terms of time and resources for both the sources
and the cabinet as issuing Title V permits and would provide very little
improvement in air quality as compared to the permit-by-rule.

(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
will be no appreciable effect on public health and the environment as a result of this administrative regulation, since the affected sources would be issued individual Title V or conditional major permits if they ceased to be covered by the permit-by-rule.

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result if the proposed administrative regulation is not implemented, since the affected sources would be issued individual Title V or conditional major permits if they ceased to be covered by the permit-by-rule.

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

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The purpose of the proposed administrative regulation is to provide an economic benefit to the cabinet and existing sources as provided by this rule. The cabinet is issuing a Title V or conditional major permit as can be as much as 300 man-hours for the cabinet and up to $100,000 or more in consulting costs for a source. The proposed administrative regulation replaces 401 KAR 50:031, which is being repealed in a separate action (401 KAR 50:071). Upon its promulgation in February 1996, 401 KAR 50:031 quickly became known as the "50% Rule", since it was patterned after the U.S. EPA's Transition Policy. The Transition Policy provides that existing major sources that maintained records showing that their actual emissions were less than 50% of the major source thresholds could temporarily avoid the Title V permitting process. The federal policy was first published on January 25, 1995, and expired 18 months later. The U.S. EPA has extended the policy 3 times, the most recent occurring on December 20, 1999, in a letter from John Seitz. The Seitz letter provides that the Transition Policy will remain in place until December 31, 2000. The U.S. EPA will grant an additional 6 months, until June 30, 2001, for states that can demonstrate the need for the additional time. The U.S. EPA's Transition Policy was and still is intended to provide states sufficient time to develop and implement programs that will allow "smaller sources" to permanently avoid the Title V permitting process. Approvable programs include federally enforceable state operating permits (FESOPs), general permits, and prohibitory rules. With the promulgation of 401 KAR 50:031 in February 1996, Kentucky opted for the quick start option, and the cabinet is implementing the Title V permitting by-rule. However, 401 KAR 50:031 had a fatal flaw, which the division did not fully appreciate until after the fact, in that it requires sources to keep records on a quarterly and annual basis and relies on the annual KYEIS survey to determine compliance. However, the U.S. EPA mandates that for sources to avoid Title V permitting, they must remain below the 50% thresholds during each and every twelve-month period and not just during each calendar year. For this reason, 401 KAR 50:031 is not approvable to our SIP and Title V programs. Therefore, the cabinet is repealing 401 KAR 50:031 and replacing it with the proposed administrative regulation, which will correct this problem by adding recordkeeping and reporting procedures that are enforceable as a practical matter and consistent with U.S. EPA published guidelines. The new provisions of the proposed administrative regulation will provide a consistent, enforceable framework for sources to avoid Title V permitting. In addition, the proposed administrative regulation will achieve 2 other important objectives of the division. First, the regulatory language has been rewritten and clarified to conform to the cabinet's initiative on plain language drafting. Second, the applicability of the existing permit-by-rule will be extended to cover qualifying sources who have submitted skeleton applications that are yet to be reviewed and to qualifying sources who failed to submit skeleton or comprehensive applications but have gone undeveloped.

(11) TIERING: Is tiering applied? Yes. The proposed administrative regulation parallels the federal "transition policy", in that it allows major sources, whose actual emissions do not exceed 50% of the major source thresholds and who comply with the specified reporting and recordkeeping requirements, to avoid the Title V permitting process. It applies equally to all sources meeting the applicability requirements and, therefore, does not affect the proposed administrative regulation does provide tiering within the cabinet's air permitting process. In that covered sources are not required to obtain federally enforceable permits, as long as they comply with the permit-by-rule.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation affects: This administrative regulation does not affect any known unit, part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates: This administrative regulation does not relate to any known aspect or service of local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality

(New Administrative Regulation)

401 KAR 52:090. Prohibitory rule for hot mix asphalt plants.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120.

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. There is no federal mandate for this administrative regulation. This administrative regulation sets production limits for hot mix asphalt plants, which keeps their emissions below the major source threshold and avoids the necessity of having to obtain a Title V or conditional major permit.

Section 1. Applicability. (1) This administrative regulation shall apply to hot mix asphalt plants:

(a) Whose potential to emit (PTE) equals or exceeds a major source threshold for Title V;

(b) Who have not been issued a Title V or conditional major permit; and

(c) Who operate in compliance with:

1. 401 KAR 59:010 or 401 KAR 61:020 as applicable; and

2. The operational limits, fuel restrictions, and recordkeeping and reporting requirements of this administrative regulation.

Hot asphalt mix plants shall be treated as separate sources unless:

(a) Two (2) or more plants are located on one (1) or more contiguous or adjacent properties; and

(b) The plants are under common control of the same person or persons under common control.

(3) For purposes of this administrative regulation, a covered source shall be a hot mix asphalt plant that chooses to comply with this administrative regulation in lieu of obtaining a Title V or conditional major permit.

Section 2. General Provisions. (1) Covered sources shall not be required to obtain Title V or conditional major permits, except as pro-
vided in:
(a) Subsections (3) and (4) of this section; and
(b) Section 4 of this administrative regulation.
(2) Covered sources shall:
(a) Comply with the operation limits, fuel restrictions, and the notifi-
cation, recordkeeping, and reporting requirements of this administra-
tive regulation;
(b) Allow authorized representatives of the cabinet to enter the
premises where the source is located or where records are kept:
1. During normal office hours;
2. During all hours of operation; or
3. During periods of emergency;
(c) Demonstrate compliance with applicable requirements if so
requested by the cabinet;
(d) Obtain a state-origin permit if required to do so under 401 KAR
52:040; and
(e) Operate in compliance with all applicable requirements.
(3) If a covered source receives a notice of violation for noncom-
pliance with any provision in subsection (2)(a) to (c) of this section:
(a) Within six (6) months after receiving the notice of violation, the
source shall submit an application for a Title V permit under 401 KAR
52:020 or a conditional major permit under 401 KAR 52:030; and
(b) Each incidence of noncompliance shall be a separate violation
until a Title V or conditional major permit is issued to the source.
(4) If a covered source is required to obtain a Title V permit by the
U.S. EPA, the source shall submit an application under 401 KAR
52:020 within twelve (12) months after publication of the final federal
rulemaking.
(5) Sources that meet the applicability criteria for this administra-
tive regulation may voluntarily apply for a Title V or conditional major
permit.

Section 3. Operation Limits and Fuel Restrictions. Covered
sources shall meet the requirements of this section.

(1) Operational limits.
(a) Batch mix plants shall not produce more than 360,000 tons of
asphalt during any consecutive twelve (12) month period.
(b) Drum mix plants shall not produce more than 500,000 tons of
asphalt during any consecutive twelve (12) month period.
(2) Fuel restrictions. Waste oil shall not be used as fuel in the
production of asphalt unless the oil has been recycled. Recycled oil:
(a) Shall not contain more than:
1. Five (5) ppm of arsenic;
2. Two (2) ppm of cadmium;
3. Ten (10) ppm of chromium;
4. 100 ppm of lead; or
5. 1000 ppm of total halogens; and
(b) Shall have a minimum flash point of 100°F.

Section 4. Reconstruction or Modification. Prior to making a
change that will cause the source to be unable to comply with this
administrative regulation, a covered source shall:
(1) Notify the cabinet by contacting the Division for Air Quality,
Permit Support Section, at (502) 573-3382;
(2) Submit an application for a Title V permit under 401 KAR
52:020 or a conditional major permit under 401 KAR 52:030; and
(3) Comply with the requirements of this administrative regulation
until the source is issued a Title V or conditional major permit.

Section 5. Recordkeeping Requirements. Covered sources shall
maintain records as specified in this section.
(1) Logs shall be kept that show:
(a) The tons of asphalt produced for each month;
(b) The tons of asphalt produced for each consecutive twelve (12)
month period, computed by adding each month's production to
the total production for the previous eleven (11) months; and
(c) The type and amount of fuels used each month, as follows:
1. Gaseous fuels usage, expressed in cubic feet or gallons and
identified as natural gas (NAT), liquid propane gas (LPG), or liquid
butane gas (LBG);
2. Fuel oil usage, expressed in gallons and identified by number
(i.e., #2, #4, etc.); and
3. Additional information which the cabinet may request.
(2) Material Safety Data Sheets (MSDS) shall be maintained with
the fuel usage log for all fuel oils purchased and used.
(3) The records shall be sufficient to determine actual emissions
for each emission unit and shall be:
(a) Maintained on site for five (5) years from date of last entry in
the log; and
(b) Made available on request for inspection by the cabinet or the
U.S. EPA.

Section 6. Reporting Requirements. At the beginning of each
calendar year, the cabinet shall mail a printout of the latest emission
inventory data in the KyEIS to each covered source. On receiving the
printout the source shall:
(1) Update the emissions information;
(2) Certify the report; and
(3) Return the report to the cabinet on or before the date indicated
in the cover letter.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.

PUBLIC HEARINGS. A public hearing on this administrative regu-
lation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in
the Conference Room of the Division for Air Quality, 803 Schenkel
Lane, Frankfort, Kentucky. Individuals who intend to be heard at this
hearing shall notify this agency in writing by August 22, 2000, five (5)
workdays prior to the hearing, of their intent to attend. This hearing is
open to the public. Any person who wishes to be heard will be given
an opportunity to comment on the administrative regulation. A tran-
script of the hearing will be made. If you request a transcript, you will
be required to pay for it. If you do not wish to be heard at the hearing,
you may submit written comments on the administrative regulation.
Send written notification of your intent to be heard at the hearing, or
your written comments on the administrative regulation, to the contact
person listed below. Written comments must be received before ad-
journment of the hearing. The hearing facility is accessible to persons
with disabilities. Requests for reasonable accommodations, including
auxiliary aids and services necessary to participate in the hearing,
may be made to the contact person at least five (5) workdays prior to
the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Devel-
opment Section, Division for Air Quality, 803 Schenkel Lane, Frank-
fort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 673-
3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis
(1) Type and number of entities affected: This administrative
regulation implements a permit-by-rule, which allows hot-mix asphalt
plants to avoid the Title V permitting process if they comply with the
production limits and the recordkeeping and reporting requirements
specified in the administrative regulation. There are currently about
135 sources in Kentucky covered under this administrative regulation
and new sources will become eligible for coverage as they are con-
structed.
(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 during the notice of intent public comment period concerning
added costs or savings for the cost of living or employment in the
geographical area where this administrative regulation will be
implemented, and the cabinet foresees none.
(b) Cost of doing business in the geographical area in which the
administrative regulation will be implemented, to the extent available
from the public comments received. No comments were received
during the notice of intent public comment period concerning added
costs or savings for doing business in the geographical area where
this administrative regulation will be implemented. Nonetheless, the
cabinet anticipates that there will continue to be substantial savings to
affected sources that will not have to apply for a Title V or conditional
major permit.
(c) To the extent available from the public comments received,
compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No comments were received during the notice of intent public comment period regarding an increase or decrease in the costs of compliance, reporting, and paperwork requirements. However, since the requirements of the proposed administrative regulation have already been implemented in an existing administrative regulation that is being repealed in a separate action (401 KAR 50:071), the cabinet anticipates no additional increase or decrease in costs.

2. Second and subsequent years: No comments were received during the notice of intent public comment period regarding an increase or decrease in costs of compliance, reporting, and paperwork requirements for second and subsequent years. However, since the provisions of the proposed administrative regulation have already been implemented in an administrative regulation that is being repealed in a separate action (401 KAR 50:071), the cabinet anticipates no additional increase or decrease in costs.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Since the provisions of the proposed administrative regulation have already been implemented in administrative regulation that are being repealed in a separate action (401 KAR 50:071), there are no new direct or indirect costs or savings during the first year for the cabinet. The cost of surveying all asphalt plants each year to determine compliance and to update the division's emissions inventory is more than offset by the reduction in permits issued by the cabinet if this permit-by-rule were not in place.

2. Continuing costs or savings: The cost of surveying all asphalt plants each year to determine compliance and to update the division's emissions inventory is more than offset by the reduction in permits issued by the cabinet if this permit-by-rule were not in place.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The reporting and paperwork requirements will continue to be absorbed in the division's operating budget.

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

There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will continue to be used to implement and enforce this administrative regulation.

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

(a) Geographical area in which administrative regulation will be implemented: No comments were received during the notice of intent public comment permit regarding economic impact in the geographical area in which the proposed administrative regulation will be implemented, and the cabinet does not foresee any additional impact.

(b) Economic impact of permit-by-rule in Kentucky, and the cabinet does not foresee any additional impact.

(7) Assessment of alternative methods: Reasons why alternatives were rejected: The only alternative (to Title V permitting) would be to issue conditional major permits to each of the sources covered under this permit-by-rule. This would cost nearly as much in terms of time and resources for both the sources and the cabinet as issuing Title V permits and would provide very little improvement in air quality when compared to the permit-by-rule.

(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 will be no appreciable effect on public health and the environment as a result of this administrative regulation, since the affected sources would be issued individual Title V or conditional major permits if they ceased to be covered by the permit-by-rule.

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result if the proposed administrative regulation were not implemented, since the affected sources would be issued individual Title V or conditional major permits if they ceased to be covered by the permit-by-rule.

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

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The purpose of this administrative regulation is to provide an economic benefit to the cabinet and to the 135 sources affected by this rule. The cost of issuing a Title V or conditional major permit can be as much as 500 man-hours for the cabinet, and up to $100,000 or more in consulting costs for a source.

(11) TIERING: Is tiering applied? No. The proposed administrative regulation applies equally to all hot-mix asphalt plants located in Kentucky.

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FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation does not affect any known unit, part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to any known aspect or service of local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation as much as 500 man-hours for the cabinet, and up to $100,000 or more in consulting costs for a source.

Other Explanation: There is no further explanation.

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)


RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Parts 51, 70, 42 USC 7410. 7661 to 7661f
STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR Parts 51, 70, 42 USC 7410, 7661 to 7661f.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation contains the procedures used by the cabinet to provide for the review of federally-enforceable permits by the public, affected states, and the U.S. EPA.

Section 1. Applicability. This administrative regulation shall apply to the permit actions specified in 401 KAR 52:020 and 401 KAR 52:030 that require public, affected state, and U.S. EPA review.

Section 2. Public Comment Period. (1) For permit actions that require public review, the cabinet shall:
(a) Provide a minimum of thirty (30) days for public comment; and
(b) Prepare a response to the comments received during the comment period.
Section 3. Public Hearing. (1) A public hearing shall be held if the cabinet determines that:
(a) On the basis of written requests received, material issues have been raised concerning the terms and conditions of the permit; or
(b) The permit action is of significant interest to the public.
(2) A request for a hearing shall not require an extension of the comment period; however, the cabinet may allow additional time after the close of a public hearing for public hearing participants to submit their comments in writing.
(3) If a public hearing is held, the cabinet shall:
(a) Provide public notice, at least thirty (30) days prior to the scheduled hearing date; and
(b) Designate a presiding officer, who shall be responsible for the scheduling and orderly conduct of the hearing.
(4) Any person may submit statements or data during the hearing concerning the permit action.
(5) The cabinet may:
(a) Set reasonable limits on the time allowed for oral statements; and
(b) Require that statements be submitted in writing.
(6) The cabinet shall:
(a) Consider all comments received at the public hearing, including comments received in alternate format to accommodate persons with disabilities;
(b) Keep a record of the participants and issues raised at the public hearing and make this record available, upon request, to the public and the U.S. EPA; and
(c) Make available to the public at a reasonable reproduction cost:
1. A tape recording or written transcript of the hearing; and
2. If requested, a written transcript in large type or Braille.

Section 4. Public Notice. (1) The cabinet shall provide public notice of a comment period and any scheduled public hearing by prominent publication in the newspaper having the largest general circulation in the area where a facility is applying for a permit.
(2) The newspaper publication may be a paid advertisement, legal notice, or other appropriate format as determined by the cabinet.
(3) The cabinet may provide additional notice to the public through other methods, including newsletters and press releases.

Section 5. Information Included in Public Notice. The public notice shall include the following information:
(1) Contact name and address of the Natural Resources and Environmental Protection Cabinet, Department of Environmental Protection, Division for Air Quality;
(2) Name and address of the permit applicant and, if different, the name and address of the facility;
(3) A brief description of the business conducted at the facility and the activity involved in the permit action;
(4) A brief description of the comment procedures, including how to request a hearing;
(5) Date, time, and place of the hearing, if one (1) has been scheduled;
(6) The end date of the public comment period;
(7) The end date of the U.S. EPA's review period;
(8) Reference to the dates of previous public notices relating to the permit;
(9) Description of any emission change involved in a permit revision;
(10) For permits subject to review under 401 KAR 50:017, the degree of increment consumption expected to occur; and
(11) Name, address, and telephone number where interested persons may obtain the following information:
(a) Copies of the draft permit or permit revision;
(b) Relevant supporting material, including permit applications, permits, compliance plans, and monitoring and compliance certification reports, except for confidential information; and
(c) Other materials available to the cabinet that are relevant to the permit decision.

Section 6. Distribution of Public Notice. Copies of the public notice shall be distributed as specified in this section.
(1) For permit actions that are subject to review under 401 KAR 51:017 or 51:052, notice shall be sent to:
(a) The permit applicant;
(b) The administrator of the U.S. EPA through the appropriate regional office;
(c) Affected states;
(d) All persons on the mailing list specified in Section 7 of this administrative regulation; and
(e) The officials and agencies having authority over the area where the source will be located, as follows:
1. Local air pollution control agencies;
2. The chief executive of the city and county;
3. Any comprehensive regional land use planning agency; and
4. Federal land manager or Indian governing body whose land may be affected by the emissions from the proposed source.
(2) For permit actions at a major source that are not subject to review under 401 KAR 51:017 or 401 KAR 51:052, notice shall be sent to:
(a) The permit applicant;
(b) The administrator of the U.S. EPA through the appropriate regional office;
(c) Affected states; and
(d) All persons on the mailing list specified in Section 7 of this administrative regulation.

Section 7. Mailing List. (1) The cabinet shall compile and maintain a mailing list of persons who request to be notified of permit actions.
(2) The cabinet may:
(a) Notify the public of the opportunity to be on the list through periodic publication in the public press, state-funded publications, or state law journals; and
(b) Delete from the list persons who fail to show continued interest in receiving notice.

Section 8. Public Inspection of Documents. (1) During the public comment period, the cabinet shall make available for public inspection all information, except that which is confidential, contained in the:
(a) Permit application;
(b) Draft permit; and
(c) Supporting materials.
(2) The information shall be made available at:
(a) The main office of the Division for Air Quality, 803 Shenkel Lane, Frankfort, Kentucky 40601;
(b) The Regional Office of the Division for Air Quality having jurisdiction over the source; and
(c) The office of the county clerk in the county or counties where the source is located.
(3) For general permits, the information specified in subsection (1) of this section shall be made available at least once (1) location of the cabinet's discretion.

Section 9. Affected States Review. Except as provided in subsection (3) of this section, for permit actions that require affected state
review the cabinet shall provide the draft permit or permit revision to affected states at the same time or before notice of the permit action is provided to the general public.

(1) The cabinet may accept a recommendation made by an affected state if the recommendation:
   (a) is received during the comment period specified in Section 2 of this administrative regulation;
   (b) is applicable to the permit action; and
   (c) does not conflict with the requirements of Kentucky Revised Statutes or 401 KAR Chapters 50 to 65.

(2) If the cabinet does not accept a recommendation made by an affected state, the cabinet shall provide a written notice to the affected state and the U.S. EPA that:
   (a) gives the reason for not accepting the recommendation; and
   (b) is submitted to the state no later than the date the proposed permit is submitted to the U.S. EPA.

(3) For a minor permit revision at a major source, the cabinet:
   (a) shall provide notice to affected states with a brief description of the requested revision within five (5) workdays after a complete permit application is received; and
   (b) after submittal of a proposed minor permit revision to the U.S. EPA, the cabinet:
      1. Shall notify the affected state and the U.S. EPA if a recommendation is not accepted; and
      2. Shall provide the reason for not accepting the recommendation.

Section 10. U.S. EPA Review. (1) For permit actions that require U.S. EPA review, the cabinet shall not issue a final permit, permit revision, or permit renewal until the U.S. EPA:
   (a) has had an opportunity to review and comment on the permit action; or
   (b) waives its right of review.

(2) The cabinet shall provide the U.S. EPA with copies of the:
   (a) Permit application, including attachments;
   (b) Other permit-related information such as public comments, settlements, and decisions from permit appeals;
   (c) Proposed permit or permit revision; and
   (d) Final permit or permit revision.

(3) On a case-by-case basis and with prior U.S. EPA approval, the cabinet may submit a summary form and the relevant portion of the permit application and compliance plan in lieu of the complete application and compliance plan.

(4) On a case-by-case basis and with prior U.S. EPA approval, the cabinet may submit the draft permit or permit revision in lieu of a proposed permit or permit revision. For these submittals:
   (a) The cabinet shall provide the U.S. EPA with:
      1. The permit application, draft permit or permit revision, and supporting information no later than the first day of the public comment period; and
      2. All timely submitted public comments after the close of the comment period;
   (b) The draft permit shall become the final permit or permit revision at the end of the U.S. EPA's forty-five (45) day review period, unless:
      1. A substantial change is made in the permit or permit revision following the public comment period; or
      2. The U.S. EPA files an objection to the permit or permit revision.
   (c) If a substantial change is made in the draft permit or permit revision, the cabinet shall make appropriate revisions and submit a proposed permit or permit revision to the U.S. EPA for another forty-five (45) day review period.

(5) If the U.S. EPA objects to the issuance of a permit or permit revision, the U.S. EPA shall:
   (a) File a statement of objection, in writing, within forty-five (45) days after receiving the permit or permit revision and supporting information;
   (b) Include in the statement the reasons for the objection and a description of the permit changes needed to resolve the objection; and
   (c) Provide the permit applicant with a copy of the filed objection.

(6) After an objection is filed, the cabinet shall make the appropriate revisions and submit a new proposed permit or permit revision to the U.S. EPA within ninety (90) days after the objection is filed.

(7) If the cabinet does not submit a revised proposed permit or permit revision within ninety (90) days after an objection is filed, the U.S. EPA may issue or deny the permit.

(8) If the U.S. EPA does not object to the issuance of a permit, a citizen may petition the U.S. EPA to file an objection.
   (a) The U.S. EPA shall file the citizen objection if the petition is:
      1. Made within sixty (60) days following the end of the U.S. EPA's forty-five (45) day review period; and
      2. Based only on objections raised with reasonable specificity during the public comment period, unless:
         a. The petitioner can demonstrate that it was impractical to raise the objection within the comment period, or
         b. The grounds for objection arose after the end of the comment period.
   (b) If the U.S. EPA files the objection, the cabinet shall not issue a final permit or permit revision until the objection has been resolved.
   (c) If the cabinet issues a permit or permit revision after the U.S. EPA's forty-five (45) day review period and before the U.S. EPA files an objection, the petition for review shall not stay the effectiveness of the permit or its requirements.

(9) To the extent possible, all information provided to the U.S. EPA shall be submitted in an electronic format that is compatible with the U.S. EPA's national database management system.

(10) The cabinet shall keep records of all information submitted to the U.S. EPA for a period of five (5) years.

(11) If the cabinet is authorized by the source to submit confidential information to the U.S. EPA, a claim of confidentiality shall accompany the relevant information.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: June 27, 2000
FILED WITH LRC: June 27, 2000 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for August 29, 2000, at 10 a.m. (Eastern Time) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify the agency in writing by August 22, 2000, five (5) workdays prior to the hearing, of their intent to appear. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Millie Ellis, Supervisor, Regulation Development Section, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, Telephone: (502) 573-3382, fax: (502) 573-3787.

REGULATORY IMPACT ANALYSIS

Contact person: Millie Ellis
(1) Type and number of entities affected: This administrative regulation contains the requirements and procedures to be used by the division when providing an opportunity for federally-enforceable permits and permit revisions to be reviewed by the public, affected states, and the U.S. EPA. Approximately 80 federally-enforceable permits are submitted for review by the division each year.

(2) Direct and indirect costs or savings on the state:
   (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 during the notice of intent public comment period concerning added costs or savings for the cost of living or employment in the geographical area where this administrative regulation will be imple-
mented, and the cabinet foresees none.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments were received during the notice of intent public comment period concerning added costs or savings for doing business in the geographical area where this administrative regulation will be implemented, and the cabinet foresees none.

(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No comments were received during the notice of intent public comment period regarding an increase or decrease in costs of compliance, reporting, and paperwork requirements, and the cabinet foresees none.

2. Second and subsequent years: No comments were received during the notice of intent public comment period following an increase or decrease in costs of compliance, reporting, and paperwork requirements for second and subsequent years, and the cabinet foresees none.

3. Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The provisions of the proposed administrative regulation have already been implemented in an administrative regulation that is being repealed in separate action (401 KAR 50:071), and the cabinet foresees no new direct or indirect costs or savings during the first year for the cabinet.

2. Continuing costs or savings: There are no new continuing costs or savings that will result from the proposed administrative regulation.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The reporting and paperwork requirements will be absorbed in the division's operating budget.

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

There are anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Implementation of this administrative regulation is a normal part of the division's operating budget. There are no requirements to enforce on the regulated community.

(6) To the extent available from the public comments received, economic impact, including effects of economic activities arising from administrative regulation, on the geographical area in which administrative regulation will be implemented: No comments were received during the notice of intent public comment period regarding economic impact in the geographical area in which the proposed administrative regulation will be implemented, and the cabinet does not foresee any additional impact.

(b) Kentucky: No comments were received during the notice of intent public comment period regarding economic impact in Kentucky, and the cabinet does not foresee any additional impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: With 1 exception, no alternatives to the provisions contained in the proposed administrative regulation were considered because these provisions are mandated under the Title V Permitting Program of 40 CFR Part 70. Otherwise, the proposed administrative regulation is merely an update and clarification of the existing regulation in 401 KAR 50:035, which is being repealed in a separate action (401 KAR 50:071). The exception involves an existing provision that is being revised. Currently, synthetic minor and conditional major permits with limits less than 50% of the major source thresholds are not submitted for public, affected state, or U.S. EPA review. Permits with limits above these thresholds are submitted for public and affected state review (as applicable), but they are not submitted for U.S. EPA review. Under the proposed administrative regulation, the cabinet will submit all synthetic minor and conditional major permits for review by the public, affected state (as applicable), and the U.S. EPA. The cabinet could have delayed this action since the requirement for conditional major and synthetic minor permits to be federally enforceable has been stayed in the courts and remanded to the U.S. EPA for further review. However, since only 2 or 3 sources have requested permits meeting these conditions in the 3 years this provision has been in place, the cabinet has determined that there are significant benefits to making these permits federally enforceable at this time. Not only will this revision prevent the complications and duplicated efforts that would be caused by having to reopen these permits at a later date; it will also better ensure compliance for sources who voluntarily accept permit conditions that keep them below the major source threshold by making their permits enforceable by the U.S. EPA as well as by Kentucky.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation contains the federally mandated requirements and procedures for allowing the public, affected states, and the U.S. EPA to comment on proposed permit actions. This review process and the oversight process is essential to controlling the proliferation of air pollution from stationary sources throughout the Commonwealth.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment and public health would result, since the U.S. EPA and the cabinet will implement and enforce these provisions if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: Why no detrimental effect would result on environment and public health, a major impact would result if the proposed administrative regulation is not implemented or the existing administrative regulation is not maintained. The U.S. EPA would withdraw Kentucky's delegation to implement not only the Title I, Title IV, and Title V Permitting Programs, but most other Clean Air Act Programs as well.

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

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The reason for promulgating this administrative regulation is to update the procedures currently found in 401 KAR 50:035, which is being repealed in a separate action (401 KAR 50:071). These provisions are being rewritten in the proposed administrative regulation to comply with the cabinet's initiative on plain language drafting and to move the division's permitting requirements into a framework of the Kentucky Administrative Regulations, 401 KAR Chapter 62.

(11) TIERING: Is tiering applied? Yes. The review process prescribed in this administrative regulation only applies to permits that are required to be made federally enforceable.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is contained in 40 CFR Parts 51, 70, 42 USC 7410, and 7661 to 7661f.

2. State compliance standards. The state compliance standards are found at KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate for federally enforceable permits and permit revisions requires the cabinet to submit specific permit actions for review by the public, affected states, and the U.S. EPA. These permit actions are specified in the proposed administrative regulations, 401 KAR 52:020 and 401 KAR 52:030. The federal mandate also includes minimum timeframes for public comment and a timetable for submission to and response from each of the reviewers.

4. What discretion is provided to the cabinet by the federal mandate to impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The comment period, timetable, and review process described in this administrative regulation are parallel to those in the federal mandate. The actual requirement for compliance with these provisions in contained in the proposed permitting regulations, 401 KAR 52:020 and 401 KAR 52:030.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards,
or additional or different responsibilities or requirements are not 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 what unit, part or division of local government this administrative regulation will affect. This administrative regulation does not affect any known unit, part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation does not relate to any known aspect or service of local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development
(New Administrative Regulation)

907 KAR 3:066. Nonemergency medical transportation waiver services and payments.

RELATES TO: KRS 96A.010, 96A.095, 96A.170, 194A.025, 194A.030, 205.520, 281.013, 281.014, 281.605, 281.635, 42 CFR 431.53, 440.710, 42 USC 1396n(b)


NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the Cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the coverage and payment requirements for nonemergency medical transportation services, excluding ambulance stretcher services, provided pursuant to 42 USC 1396n(b) and approved by the Health Care Financing Administration to waive Medicaid requirements related to nonemergency medical transportation of Medicaid recipients.

Section 1. Definitions. (1) "Capitated rate" means one (1) amount paid each month for each Medicaid recipient covered under authority of the waiver. The capitated rate shall not be a statewide rate but shall be set individually for each Human Service Transportation delivery region as established in 603 KAR 7:080.

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Human service transportation" means provision of mass transportation and taxi services to transport an individual who is eligible to receive Medicaid services.

(4) "Nonemergency medical transportation" means medical transportation not of an emergency nature, excluding ambulance stretcher services, provided to a Medicaid recipient by the Transportation Cabinet pursuant to an agreement between the Transportation Cabinet and the department.

(5) "Waiver authority" means the provisions contained in 42 USC 1396n(b).

Section 2. Interagency Agreement. Pursuant to waiver authority granted by the Health Care Financing Administration, U.S. Department for Health and Human Services, the Department for Medicaid Services may enter into an agreement with the Transportation Cabinet for the provision of nonemergency medical transportation to a Medicaid recipient.

Section 3. Coverage. (1) The coverage provisions established in 603 KAR 7:080 shall comply with this administrative regulation.

(2) A Medicaid-eligible recipient may receive nonemergency medical transportation services if the recipient meets the following conditions:

(a) The recipient shall be traveling to or from a Medicaid-covered service, exclusive of pharmaceutical services;

(b) The service shall be determined to be of medical necessity; and

(c) Free transportation which is appropriate for the recipient's medical needs is not available or use of an appropriate and operational household vehicle is not available.

Section 4. Reimbursement. (1) The Transportation Cabinet shall be reimbursed at a monthly capitated rate set by the department for each Medicaid recipient receiving services pursuant to this administrative regulation.

(2) The capitated rate shall not exceed the Medicaid Program's usual aggregate cost on a projected statewide basis of providing nonemergency medical transportation services to the covered group of recipients.

Section 5. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid recipient shall be in accordance with 907 KAR 1:563;

(2) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560; or

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:571.

Section 6. Implementation. The provisions of this administrative regulation shall be applicable for nonemergency transportation waiver services provided in accordance with KRS Chapter 45A and Section 2 of this administrative regulation on or after April 12, 2000.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: June 9, 2000
FILED WITH LRC: July 12, 2000 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 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 August 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 Rodríguez

(1) Type and number of entities affected: All Medicaid recipients and all nonemergency medical transportation providers participating in the Medicaid program.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Medicaid received no public comments regarding this subject.

(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: Medicaid received no public comments regarding this subject.

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

1. First year following implementation: The regional transportation broker/provider may be required to collect encounter data and provide it to the department for all services provided.

2. Second and subsequent years: The department shall be responsible for obtaining an independent assessment of the cost effectiveness of the waiver and its impact on recipient access.

3. Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:
1. First year: $1,866,600 (savings)
2. Continuing costs or savings: $1,666,600 (savings)
3. Additional factors increasing or decreasing costs: None. Cost to the department will decrease because the payment is capitated at less than the prior fee-for-service expenditures.

(b) Reporting and paperwork requirements: The Health Care Financing Administration (federal agency overseeing Medicaid) requires an independent study to be conducted to demonstrate that the provision of non-emergency transportation services are not negatively affected by the nonemergency medical transportation waiver.

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 matching funds equaling $1,175,800 and state matching funds equaling $495,000 of Medicaid benefits will be saved.

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: Medicaid received no public comments regarding this subject.

(b) Kentucky: Medicaid received no public comments regarding this subject.

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: This regulation will provide improved access to and safety of nonemergency medical transportation by allowing management of the service provision by a regional transportation broker/provider who is familiar with the needs of the local population.

(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: Not implementing this program will deprive Medicaid recipients of increased access to nonemergency medical transportation and assurance of safety transportation vehicles with trained drivers.

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.

(c) 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.

SECTION 1. Definitions. (1) "Cabinet" is defined at KRS 208.020(2).

(2) "Child" is defined at KRS 199.011(4), 600.020(5), and 610.110(6).

(3) "Intensive family-based services" means the goal of keeping the family unified or if removal of a child is necessary, placing the child in the least restrictive setting consistent with his individual needs.

(4) "Kentucky Transitional Assistance Program (K-TAP)", Kentucky's Temporary Assistance for Needy Families Program, means a money payment program for a child who is deprived of parental support or care pursuant to KRS 2:005, Section 1(6).

(5) "Kentucky Works" means a program that assists:

(a) Recipient of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or

(b) Former K-TAP recipient with job retention service.

(6) "Preventive assistance" means a service to provide emergency funds to a family during crisis.

(7) "Safe net" means a short-term intervention or maintenance service to help an individual and a family develop and maintain skills and abilities that may prevent out-of-home placement for a child in that family.

(8) "Rehabilitative services" is defined at 907 KAR 3:020, Section 1(2).

(9) "Targeted case management" is defined at 907 KAR 3:020, Section 1(3).

SECTION 2. Child Care Services. The family services worker may refer an individual or family for child care services pursuant to 622 KAR 2:160 if the individual or family:

(1) Makes a request for assistance for child care expenses;

(2) Needs child care for protection or prevention of child abuse, neglect or exploitation; or

(3) Needs child care for a child of a teen parent attending high school.

SECTION 3. Child Support Service. The family services worker shall:

(1) Make a referral for child support services to the Division of Child Support for a family who has a child entering out-of-home care;

(2) If the noncustodial parent's whereabouts are unknown, conduct and document a noncustodial parent search; and

(3) Assist the custodial parent with filing for child support services.

SECTION 4. Intensive Family-based Support Services. (1) Intensive family-based support services shall be directed toward:

(a) Stabilizing the child in his own home or foster home;

(b) Preventing further hospitalization or institutionalization; and

(c) Enabling the child and family to improve their own lives.

(2) An intensive family-based support service may be provided to a child with a problem that include:

(a) Mental retardation or developmental disability;

(b) Emotional or behavioral disturbance;

(c) Dual diagnosis;

(d) Risk of institutionalization; or

(e) Aftercare services following release from an institution or other highly structured setting.

(3) Except for the assessment and discharge planning, intensive
family-based support services shall not start while the child is in a
hospital or an institution.
(4) Intensive family-based support services shall be available to a
family with a child living in a:
(a) Biological home;
(b) Foster home; or
(c) Adoptive placement.
(5) The family services worker may make a referral for intensive
family-based support services as follows:
(a) Comprehensive assessment that includes:
1. Review of medical, psychiatric, social and educational assess-
ments conducted within the last twelve (12) months; and
2. An in-home assessment;
(b) When appropriate, discharge planning services provided
through the service provider's involvement with a foster or biological
family, the child and the hospital or institution to ensure:
1. A coordinated approach upon discharge; and
2. That communication is clear regarding behaviors, goals, and
recommended interventions;
(c) Planned support services provided to assist with routine day-
to-day activity that is crucial to stabilization of the child within the family
unit;
(d) Family intervention services such as behavioral and family
counseling to assist the child and family in:
1. Identifying and resolving issues underlying the dysfunctional
behaviors within the family; or
2. Eliminating barriers to change;
(e) Respite care services provided to allow a biological or a foster
parent relief for a designated period of time from the stress of caring
for an emotionally disturbed or physically disabled child or allow time to
attend to other needs;
(f) In-home foster home paraprofessional attendant to provide
direct in-home services to a child, a biological and a foster parent as
identified in the case plan by a qualified paraprofessional attendant;
(g) Purchase of care in an alternate living unit as a component of
intensive family-based support services contract;
(h) Art and music therapy from a qualified professional;
(i) Educational consultation and support;
(j) Crisis intervention, and
(k) Skills development; or
(l) Other services identified in the treatment plan.
(6) The type, frequency, intensity and duration of services shall be
determined according to each individual situation.
(7) A case plan shall be developed for a child in a biological home
pursuant to 922 KAR 1:330, Section 15. The plan shall address:
(a) Problem areas;
(b) Goals and objectives;
(c) Time frames; and
(d) Outcomes.

Section 5. Safety Net Services. (1) Safety net services shall be
provided for a former K-TAP recipient who is no longer eligible for K-
TAP benefits due to failure to comply with the Kentucky Works Pro-
gram pursuant to 921 KAR 2:006, Section 19(4), and 921 KAR 2:370,
Section 7(2)(a).
(2) A safety net service may include:
(a) Assessment of the family and home situation;
(b) Assisting the individual or family to identify the problem and
resources available to improve the situation;
(c) Linkage to the appropriate resources; and
(d) Interventions in a crisis situation including:
1. Fuel shortage;
2. Utility shutoff;
3. Insufficient basic needs such as food, clothing, housing, and
employment; or
4. Response to an inquiry regarding the family situation.
(3) The family services worker shall contact the household within
fifteen (15) working days upon referral from the family support worker
for a family assessment.
(4) If the household does not require financial assistance, the
family services worker shall refer the household to the appropriate
community resource.
(5) The assessment shall be completed in order to access family
net monies.

(6) The cabinet may authorize up to $635 in a state fiscal year to the
appropriate vendor over a three (3) month period for a family's
safety net services.
(7) A family may voluntarily repay funds dispensed or return items
purchased with the funds. Funds returned shall be sent to the Director of
the Division of Financial Management.

Section 6. Medicaid Services. (1) Rehabilitative services shall be
provided to a Medicaid-eligible child under the age of twenty-one (21)
pursuant to 907 KAR 3:020, Section 3(2).
(2) Targeted case management services shall be provided to a
Medicaid-eligible individual pursuant to 907 KAR 3:020, Section 3(1).

Section 7. Preventative Assistance. (1) Preventative assistance
services shall be provided to:
(a) Prevent the removal of a child from his home;
(b) Facilitate the return of a child to his natural parents; and
(c) Assist an individual who is identified at-risk and is in need of
protective services intervention.
(2) Preventative funds may be utilized for:
(a) Shelter;
(b) Food;
(c) Clothing;
(d) Utilities; and
(e) Other services.
(3) The cabinet may authorize up to $500 in a state fiscal year to the
appropriate vendor for a family.
(4) A family may voluntarily repay funds dispensed or return items
purchased with funds. Funds returned shall be sent to the Director of the
Division of Financial Management.

Section 8. K-TAP Determination for Domestic Violence Victims. If
a report of alleged domestic violence is received from the family sup-
port worker pursuant to 921 KAR 2:006, Section 23, the family ser-
vice worker shall:
(1) Attempt to arrange a face-to-face interview with the alleged
victim to conduct the assessment or investigation and offer protective
and support services;
(2) Develop an appropriate services plan based on the assess-
ment; and
(3) Upon completion of the assessment or investigation, provide
information to the family support worker whether the reported victim:
(a) Is in a domestic violence situation; and
(b) Has agreed to a service plan.

Section 9. Assessment of Teen Parents. (1) If the family support
worker makes a determination that a teen parent is not living with an
adult or legal guardian pursuant to 921 KAR 2:006, Section 18(3), the
teen is referred to the family services worker for an assessment of his
safety including assistance with alternative living arrangement if
deemed necessary.
(2) The family services worker:
(a) Shall provide a short-term assessment of the teen's current
situation and the safety issues for the teen and minor child;
(b) May refer the family to the appropriate services;
(c) Shall conduct a face-to-face contact with the teen parent and
the child;
(d) Shall contact the teen's parent or guardian to determine if he is
accepting of the teen's living arrangement;
(e) Once the assessment is completed, shall notify the Division of
Family Support with the following information:
1. Services to which the teen has been referred;
2. Safety issues identified; and
3. If a protective or preventive services case on the family shall be
opened.

Section 10. Incorporation by Reference. (1) The OOHC-1275,
Fact Sheet-Intensive Family-based Support Services, edition 6/99, is
incorporated by reference.
(2) This material may be inspected, copied, or obtained at the
Department for Community Based Services, 275 East Main Street,
Frankfort, Kentucky 40621 Monday through Friday, 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
REGULATORY IMPACT ANALYSIS

Agency Contact: Cathy G. M行列ay
(1) Type and number of entities affected:
   (a) As of May 21, 2000, there were approximately 5,527 children entering out-of-home care who were referred by the family services worker for child support services;
   (b) As of this date, there are approximately 31 children, in addition to 15 families being served intensive family-based services;
   (c) Safety Net Services were provided for the following months:
      1. January 2000 - Approximately 47 families (105 children) were discontinued for refusing to participate in Kentucky Works. Emergency assistance payments were made to 3 families.
      2. February 2000 - Approximately 43 families (96 children) were discontinued for refusing to participate in Kentucky Works. Emergency assistance payments were made to 5 families.
      3. March 2000 - Approximately 42 families (87 children) were discontinued for refusing to participate in Kentucky Works. Emergency assistance funds were made to 5 families; and
      4. April 2000 - Approximately 3 families (six (6) children) were discontinued for refusing to participate in Kentucky Works. Emergency assistance funds were made to 4 families;
   (d) As of this date, there are approximately 5,927 children in out-of-home care and for the fiscal year 99 there were 16,690 children who had a substantiated report of abuse and/or neglect identified at risk;
   (f) As of this date, there have been approximately 1,580 families served with Preventative Assistance funds; and
   (g) For SYF 2000 the average monthly number of children receiving child care for protective services was approximately 4000.
   (2) Direct and indirect costs or savings on those affected: None
   (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written 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 comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments received.
   (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (note any effects upon competition) for this:
      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 to the agency:
      1. First year: None
      2. Continuing cost or savings: None
      3. Additional factors increasing or decreasing cost: 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
(5) 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 hearing was requested as the result of the Notice of Intent being published and no written comments were received.
   (b) Kentucky: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the public hearing on this ordinary administrative regulation.
(7) Assessment of alternative methods; reasons why alternatives were rejected: None 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.
   (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 regulation if in conflict: None
   (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(10) Any additional information or comments: None
(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like-manner for all individuals as set forth through regulatory and statutory requirements.
The July meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, July 11, 2000 at 10 a.m. in Room 149 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the June 13, 2000 meeting were approved.

Present were:
- Members: John Arnold, Chairman; Senators Joey Pendleton, Rich Crock, and Marshall Long; Representatives Woody Allen, Jimmie Lee and James Bruce.
- LRC Staff: Dave Nicholas, Donna Little, Stephen Lynn, Edna Lowery, Susan Wunderlich, Donna Valencia, Ellen Steinberg, Ellen Benzing, Cliff Baker, Don Hines.
- Guests: Robin Thomerson, Janice Ernst, Linda Rensehier, Richard Casey, KHEAA; Roger Sugerman, Dennis Taulbee, Council on Postsecondary Education; Nancy L. Black, Scott Porter, Jack Kems, Kentucky Athletic Commission; Tom Bennett, Jennifer Fields, Department of Fish and Wildlife Resources; Brenda Priestley, Stephen P. Durham, Tamela Biggs, Department of Corrections; Charlie Harman, Transportation Cabinet; Mary Ellen Wiedenwohl, Education Professional Standards Board; Helen Mountjoy, Kevin Nolan, Bonnie Briny, Board of Education; Mona Carter, Russell Cox, Brian K. Staples, Shaun Orme, Department of Insurance; Robert Calhoun, Marcia Burklow, Ann B. Reesser, David Nichols, Erle Tedder, Marcia Black, Karen Blevins, Trish Howard, Jake Schneider, Virginia L. Shumate, Cabinet for Health Services; Shirley Eldridge, Thelma Cornett, Rosanne Barkley, Stephanie Brammer-Barnes, Cliff Jennings, Mike Ridenour, Kentucky Chamber of Commerce; Mike Helton, KPMA; Jan Gould, Kentucky Retail Federation; Ted Bradshaw, AAL; Lyle D. Cobb, Cobb & Associates; Bert May, Kentucky League of Cities; Jennifer Rhoades, Municipal Electric Power Association of Kentucky; Robert L. Barnett, Kentucky Pharmacists Association; Leon Mooneyan, Local Superintendent's Advisory Committee; Teresa T. Combs, Kentucky School Boards Association; Betty D. Munz, Kentucky Council of Administrators of Secondary Education; Charles Munz, Special Education Consultant; Jane Ellen Myers, Anderson County Schools; Kathleen Reutman, Boone County School; Marti Ginter, Central Kentucky Special Education Cooperative; Clairy Walker, Teresa Watson, Central Kentucky Special Education Co-op; Ken Roberts, Daviess County Public Schools; Robema Salyer, Greenup County School; Brenda C. Voris, Harrodsburg Independent; Carol Sturgill, Johnson County Board of Education; Linda Walters, Montgomery County; Joan Teeters, Union County Schools; Stephen W. Long; Carole H. Long; Carol L. Grissett; Veronica Brown; Marie Braun.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

**Kentucky Higher Education Assistance Authority: Division of Student Services: Kentucky Loan Program**

11 KAR 3:100. Administrative wage garnishment. Richard Casey, General Counsel, and Linda Renscher, Branch Manager, Student Aid Branch, represented the Authority.

In response to questions by Senator Roeding, Mr. Casey stated that: (1) this administrative regulation was not more stringent than federal requirements; (2) he did not know how many student loans were outstanding; and (3) the wage garnishment process on defaulted student loans has resulted in a net recovery of approximately five million dollars from borrowers from 2,100 to 2,500 borrowers.

This administrative regulation was amended as follows: Sections 3, 5, and 6 were amended to: (1) correct typographical errors; and (2) comply with the: (a) format requirements of KRS 13A.220(4); and (b) draft requirements of KRS 13A.222(4).

**KHEAA Grant Programs**

11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5. In response to questions by Senator Roeding, Mr. Casey stated that the administrative regulation: (1) prohibited financial aid for correspondence courses for traditional mail-order home study programs; and (2) did not affect: (a) courses through the Kentucky Commonwealth Virtual University; or (b) continuing education programs that did not lead to a certificate, diploma, or degree.

This administrative regulation was amended as follows: (1) Section 1(7) was amended to: (a) comply with the drafting requirements of KRS 13A.222(4)(e) for definitions; and (b) specify that the definition of "correspondence course" shall not include courses from the Kentucky Commonwealth Virtual University (KCVU); and (2) Section 2(2) was amended to correct the citation to applicable federal statutes, as required by KRS 13A.222(4)(m) and (p).

11 KAR 5:034. CAP grant student eligibility. This administrative regulation was amended as follows: Sections 1(3) and 1(10) were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

11 KAR 5:140. KTG award determination procedure. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; and (2) Sections 1, 3, 4, 5, 6, and 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

11 KAR 5:145. CAP grant award determination procedure. This administrative regulation was amended as follows: Sections 1 through 8 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

11 KAR 5:160. Disbursement procedures. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; and (2) Sections 1, 2, 3, 5, 6, and 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

**Kentucky Educational Savings Plan Trust**

11 KAR 12:010. Definitions for 11 KAR Chapter 12. This administrative regulation was amended as follows: Section 1(9) was amended to correct an internal cross-reference. This administrative regulation was amended as follows: Section 1(9) was amended to correct an internal cross-reference.

11 KAR 12:030. Eligibility of beneficiary and participant. In response to questions by Senator Roeding, Mr. Casey stated that: (1) the beneficiary's social security number may not be used for identification purposes; and (2) he was not aware of recent efforts to stop using social security numbers for identification.

In response to a question by Senator Roeding, Subcommittee staff stated that: (1) the reference to "reasonable rules and regulations" was included in the summary of the applicable statute, KRS 164A.325(9) included in the initial staff review; and (2) this administrative regulation was filed in response to the statutory mandate established in KRS 164A.325(9).

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (2) Sections 1 and 2 were amended to use "self", instead of "they", as required by KRS 13A.222(4)(b); (3) Section 1(1) was amended to include the items included in a participation agreement; and (4) a new Section 4 was created to incorporate by reference the participation agreement.

**Council on Postsecondary Education: Public Educational Institutions**

13 KAR 2:020. Guidelines for admission to the state-supported postsecondary education institutions in Kentucky. Dennis Taulbee, General Counsel, and Roger Sugerman, Associate, Academic Affairs, represented the Council.

This administrative regulation was amended as follows: (1) Section 2 was amended to specify that the ACT recommended college core courses were listed in the ACT high school profile report; and (2) Sections 4, 6, and 7 were amended to correct typographical errors.

**Kentucky Athletic Commission**

201 KAR 27:005. Definitions. Nancy Black, Director, Division of Occupations and Professions, Jack Kems, Chairman, and Scott Por-
In response to questions by Representative Bruce, Ms. Black stated that: (1) she was a member of the Kentucky Athletic Commission; and (2) these administrative regulations (201 KAR 27:005 through 201 KAR 27:035) were intended to control dangerous activities associated with kickboxing.

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) Section 1 was amended to: (a) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); and (b) delete provisions that repeated or summarized statutory authorities as required by KRS 13A.222(1)(f).

201 KAR 27:010. General requirements for boxing, elimination events, kick boxing, matches, shows, or exhibitions. 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) Sections 2, 4, 6, and 8 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 27:012. Wrestling requirements. 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) Sections 1, 2, 3, 4, 5, and 6 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 27:013. Scoring and conduct of boxing, kick boxing, and elimination events. 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) Sections 4, 6, 7, 10, 12, and 14 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 27:014. Female boxing guidelines. 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) Sections 1 and 2 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 27:015. Prompt payment of fees, fines and forfeitures required. In response to questions by Senator Roeding, Mr. Porter stated that this administrative regulation: (1) did not increase actual fees; and (2) increased the salaries paid by the promoter directly to the individuals who officiated at the boxing events.

In response to questions by Senator Roeding, Mr. Kerns stated that, for a previous fight in Paducah, a judge: (1) drove down to Paducah; (2) paid for his food; (3) spent $24 to spend the night; and (4) received a check for $50.

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 was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(4); and (3) Sections 3 and 4 were amended to comply with the drafting requirements of KRS 13A.222(4).

201 KAR 27:035. Seconds. 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) Section 1 was amended to comply with the format requirements of KRS 13A.222(4).

Department of Fish and Wildlife Resources: Fish

301 KAR 1:130. Live bait for personal use. Tom Bennett, Commissioner, and Scott Porter, Assistant Attorney General, represented the Department.

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 of, the administrative regulation as required by KRS 13A.220(4); and (3) Sections 1 through 4 were amended to: (a) correct typographical errors; and (b) comply with the drafting requirements of KRS 13A.

301 KAR 1:132. Sale of live bait. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1 and 2 were amended to correct minor typographical errors.

301 KAR 1:140. Special commercial fishing permit. This administrative regulation was amended as follows: Section 3 was amended to correct minor typographical errors.

301 KAR 1:201. Fishing limits. In response to questions by Chairman Arnold, Mr. Bennett stated that: (1) a few commercial for-profit bass tournaments had raised concerns about the fishing limits established in this administrative regulation; (2) he was advised by Department staff that similar concerns had been raised when the size limit was increased from twelve to fifteen many years ago; (3) the quality of fishing at Lake Cumberland was outstanding; (4) objections had been raised because it took longer to grow an eighteen inch fish rather than a fifteen inch fish; and (b) commercial for-profit bass tournaments were concerned because they could not: 1. make enough money; and 2. sell the idea of a tournament with an 18 inch size limitation; and (4) the size limits would not overpopulate the lake.

This administrative regulation was amended as follows: Sections 1 and 2 were amended to correct minor typographical errors.

Game

301 KAR 2:144. Fall wild turkey hunting. This administrative regulation was amended as follows: Sections 1 and 4 were amended to correct minor typographical errors.

301 KAR 2:174. Deer hunting zones. In response to a question by Senator Roeding, Mr. Bennett stated that this administrative regulation represented an aggressive attempt to increase the harvest amount.

This administrative regulation was amended as follows: 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).

301 KAR 2:176. Deer control tags. In response to a question by Senator Roeding, Mr. Bennett stated that the Department: (1) issued about 13,000 deer control tags annually; and (2) believed that number would increase as a result of this administrative regulation.

In response to questions by Representative Bruce, Mr. Bennett stated that: (1) the deer control tags were: (a) issued to landowners who complained to the Department about crop deprivation; and (b) given by the landowners to hunters; (2) landowners were not charged for those tags; and (3) unless there was a special arrangement between the landowner and the hunter, the hunter did not pay for the tag from the landowner.

In response to a question by Senator Roeding, Mr. Bennett stated that: (1) a landowner could obtain a deer control tag by: (a) contacting a Department office; and (b) asking a Department biologist to conduct a survey of the amount of crop damage; (2) the survey was typically conducted at night; and (3) this administrative regulation increased the number of deer control tags to five per person.

This administrative regulation was amended as follows: Sections 5 and 6 were amended to correct minor typographical errors.

Wildlife

301 KAR 4:200. Addington Enterprises and Robinson Forest Wildlife Management Areas use requirements and restrictions. In response to a question by Senator Roeding, Mr. Bennett stated that this administrative regulation restricted fishing in certain areas because: (1) those waters were recently stocked; and (2) the Department wanted to provide time for the fish to mature.

This administrative regulation was amended as follows: Section 8 was amended to correct minor typographical errors.

Licensing

301 KAR 5:030. Purchasing licenses and obtaining replacement licenses. In response to a question by Senator Roeding, Mr. Bennett stated that this administrative regulation: (1) did not specifically increase senior and disabled fees; and (2) established an increase across the board if a person: (a) lost a license; and (b) wanted to re-place that license.

In response to questions by Representative Bruce, Mr. Bennett...
stated that: (1) the market for fresh water mussel shells was currently
down in Japan; (2) similarly, the demand and number of permits had
decreased; and (3) when the market for cultured pearls was high, the
Department spent a lot of time at night on the lakes.

This administrative regulation was amended as follows: the
STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND
CONFORMITY paragraphs and Section 6 were amended to correct
citations.

Transportation Cabinet: Department of Vehicle Regulation: Ad-
ministration
601 KAR 2:020. Drivers' privacy protection. Charlie Harman
and Todd Shipp, Assistant General Counsel, represented the Department.

In response to questions by Senator Roeding, Mr. Harman stated
that: (1) the implementation of this administrative regulation would test
the Cabinet approximately $50,000 in decreased revenue; (2) this
administrative regulation: (a) established the Cabinet's intent not to
sell personal information; and (b) reduced the amount of: 1. informa-
tion sold; and 2. potential buyers; (3) currently, the Cabinet sold infor-
mation from the drivers' licensing computerized system; and (4) the
Cabinet will still sell some of the information under specific restrictions.

In response to questions by Representative Allen, Mr. Harman
stated that: (1) the Cabinet sold information to the new
registration record under a different program; (2) this administrative regulation
addressed the selling of information from a person's driver's license to
organizations, including: (a) AAA; (b) Poll Directories; (c) City of Lou-
ville; (d) City of Lexington; (e) Gordon Darby, who handled the VET
testing program; and (f) other organizations; (3) currently a person
completed a form to opt out of the system; and (4) this administrative regulation
established an opt-in provision that resulted from a South
Carolina lawsuit.

In response to questions by Representative Allen, Mr. Shipp stated
that: (1) currently, a person who did not wish to have their infor-
mation sold was given an opportunity to opt out of the system; (2)
the South Carolina case, Reno v. Condon, was decided by the United
States Supreme Court; and questioned the constitutionality of the
Driver's Privacy Protection Act; (3) the federal government created an
opt-in system that required the state to ask each taxpayer if the tax-
payer wished to have their name and other personal information made
available for marketing purposes; (4) because that was not feasible for
the Cabinet, the Cabinet decided to remove all forms of marketing
sales; (5) as an example, R. L. Polk handled: (a) recall items for the
Big 3 auto-makers; and (b) marketing for those same auto-makers; (6)
under this administrative regulation, R. L. Polk will not be able to use
the information for marketing purposes; (7) until now, a taxpayer could
tell the Cabinet that he did not wish to participate in the marketing
programs; (8) now the Cabinet will not make those sales available at
all; (9) information regarding the opt-out program had been available
in each of the county and circuit clerks' offices by posters and avail-
able forms.

Representative Allen stated that: (1) he strongly objected to the
Cabinet's selling his personal information and making it freely
available to any personal information; it was terrible that government would partici-
brate in this scheme; and (3) the Cabinet should contact each taxpayer
to see if the taxpayer wants to be included in a program in which his
information would be sold.

Mr. Shipp stated that: (1) federal law required the Cabinet to han-
dle recall information through R. L. Polk under the Anti-pollution Stan-
dards Act; and (2) the Cabinet charged R. L. Polk for obtaining the
required information.

Mr. Harman stated that: (1) the Cabinet would no longer sell this
information for marketing or other profit-making purposes; (2) the fed-
eral regulation called for an opt-in process to require a taxpayer to
complete a form when renewing his driver's license to participate in the
opt-in program; and (3) the Cabinet: (a) did not believe taxpayers
would complete that form because no one wants to be included in the
marketing programs; and (b) decided not to allow the marketing pro-
grams.

In response to questions by Representative Bruce, Mr. Shipp stated
that: (1) both state and federal regulations recognized the need
of insurance companies for information needed to investigate fraud;
(2) the cost for that information depended on the frequency and
source of the request; (3) if the City of Louisville police department
requested information on a particular suspect, the Cabinet would pro-
vide that information at no cost; and (4) the Cabinet did charge: (a)
insurance companies; and (b) the City of Louisville for its weekly re-
quest for a list of updates to track parking citations in the county.

In response to a question by Chairman Arnold, Mr. Harman stated
that: (1) some information from a person's driving history record, in-
cluding if a person had any convictions, could be sold; and (2) per-
sonal information could not be sold.

This administrative regulation was amended as follows: (1) the
RELATES TO and STATUTORY AUTHORITY paragraphs were
amended to correct statutory citations; (2) the NECESSITY,
FUNCTION, AND CONFORMITY paragraph was amended to clearly state the
necessity for and function served by this administrative regulation, as
required by KRS 13A.220(3)(f); and (3) Sections 2, 4, 5, 6, and 9
were amended to comply with: (a) format requirements of KRS
13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Education Professional Standards Board
704 KAR 20:740. Certification requirements for teachers of ex-
ceptional children. Mary Ellen Wiedenwohl represented the Board.

In response to questions by Senator Roeding, Ms. Wiedenwohl stated
that: (1) this administrative regulation: (a) was not more string-
ent than federal requirements; (b) was not mandated by the federal
government according to a federal regulation; (c) the new
Individuals with Disabilities Education Act (IDEA) provided that states
shall establish their own certification requirements, which Kentucky
already had established; (3) this administrative regulation represented a
realignment of the certificates previously offered in Kentucky into the
categories of disabilities defined in the IDEA; (4) teacher certification
requirements were not more stringent than necessary; (5) in several of the
new categories of certificates, the Board can approve (a) and (b) and
told school districts to place a teacher who held certification to teach
exceptional children in a position if that teacher could serve the child
best; (6) the Board was very concerned with the number of emergency
and probationary certified teachers in this area; (7) a person could call
the Board to check on a teacher's certification; and (8) school districts:
(a) had access to the Board's database; and (b) could check teacher certification from the district's central office.

This administrative regulation was amended as follows: (1) the
RELATES TO and STATUTORY AUTHORITY paragraphs were
amended to correct statutory citations; and (2) the NECESSITY,
FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4
were amended to comply with the: (a) format requirements of KRS
13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Education, Arts and Humanities Cabinet: Board of Education:
Department of Education: Division of Exceptional Children Serv-
ices: Exceptional and Handicapped Programs
Kevin Noland, Interim Commissioner of Education, Helen Mount-
joy, Chair, Kentucky Board of Education; and Barbara Kibler, Attorney,
Division of Exceptional Children Services, represented the Depart-
ment. Carol Long; Carol Gisselt, Veronica Brown, and Marble Braun
appeared before the Subcommittee in objection to these administra-
tive regulations (707 KAR 1:290 through 707 KAR 1:380). Joan Tee-
ters, Union County Schools, Leon Moorheny, Local Superintendent's
Advisor Committee, and Charles Muntz, Special Education Consult-
ant, appeared before the Subcommittee in support of these adminis-
terative regulations.

In response to questions by Senator Roeding, Mr. Noland stated
that: (1) most of the definitions in 707 KAR 1:290 were the same as
previous definitions; (2) the Department: (a) promulgated these ad-
iministrative regulations to: 1. reduce paperwork requirements in re-
response to consistent requests from teachers of special education; and
2. comply with changes in federal law; (b) focused on ways to improve
teaching and learning; and (c) decided to remove required paperwork
that did not add to that focus; (3) 707 KAR 1:011: (a) would repeal
twenty-one existing administrative regulations; and (b) was deferred
until the August 1 Subcommittee meeting to coincide with the deferral
of 707 KAR 1:340; (4) the Department: (a) promulgated eleven new
administrative regulations following a one-year process that involved a
work group that included parents, teachers, local school districts, su-
perintendents, and special education directors; (b) held two public
hearings, including: 1. a hearing in January at which 189 people sub-
mitted comments; and 2. a hearing in May; and (c) made many changes and compromises in response to the comments received; (5)
many people in the audience: (a) were wearing yellow stickers that said "kids not paper"; and (b) represented local teachers, special education directors, and superintendents who supported these administrative regulations; (6) the Department: (a) could: 1. not reduce federal paper work requirements; and 2. reduce state paperwork requirements; (b) believed these administrative regulations were no more onerous than required by federal law, except in two situations in which state statutory provisions specifically required the Board to promulgate administrative regulations that established class size and caseload requirements for special education teachers; (c) was in the process of revamping the notices sent to parents to make them as understandable as possible; and (d) could not deviate from the definitions established in federal law; (7) he could provide a list of ten stakeholder groups: (a) had extensive input into the administrative regulations; (b) had a strong commitment to these children; and (c) agreed on the same goal, to improve teaching and learning for these students; (8) some people had different ideas on how to reach those goals; (9) the Department: (a) was not able to please everybody; and (b) made great compromises to address all concerns; and (10) these administrative regulations: (a) represented what a great majority of stakeholders supported; and (b) significantly reduced paperwork requirements required by federal law.

In response to a question by Senator Roeding, Subcommittee staff stated that the initial staff review: (1) included a brief summary of the Regulatory Impact Analysis; and (2) stated that no alternative methods were contemplated since: (a) federal law required state policy on this subject; and (b) the Board could require policy only through the promulgation of administrative regulations.

In response to a question by Senator Roeding, Ms. Kibler stated that the definition of "consent" in 707 KAR 1:280, Section 1(15): (1) tracked the federal definition; and (2) was very similar to the current state definition.

In response to questions by Senator Roeding regarding 707 KAR 1:280, Mr. Noland stated that: (1) the definition of "home school" in Section 1(28): (a) would not affect private or home schools; and (b) was required because the Board: 1. defined school districts to include students attending private schools, with a disability, even if the students attended private school; and 2. private schools included home schools; and (2) the definition of "monitoring in" in Section 1(34): (a) related to 707 KAR 1:380; (b) was needed because federal law required the Department to monitor to ensure that students with disabilities received required services; and (c) was changed to focus the department's efforts: 1. on ensuring that students received improved educational results; and 2. to avoid technical requirements.

In response to questions by Senator Roeding, Ms. Kibler stated that Section 1(42) of 707 KAR 1:280 defined "private school children with disabilities" because federal law required school districts to identify children with disabilities, even if the children were enrolled in private schools.

In response to a question by Senator Roeding, Mr. Noland stated that the definition of "qualified personnel" in 707 KAR 1:280, Section 1(44), did not affect private or home schools because the state did not regulate their qualifications.

In response to questions by Representative Lee, Mr. Noland stated that: (1) some parents of students with disabilities were in attendance at the Subcommittee's meeting; (2) some school district personnel also had students with disabilities; and (3) the statement of consideration filed after the January public hearing included comments from concerned parents.

Representative Lee stated that: (1) he wanted to: (a) hear comments from parents of special needs students regarding these administrative regulations; and (b) eliminate needless paperwork; (2) if these administrative regulations negatively affected the quality of education or services provided to Kentucky's children, he could not support them; (3) many parents: (a) did not understand the complex government process and red tape; (b) emotionally invested in their special needs child; and (c) needed to understand the requirements and their entitlements; and (4) the state should prepare these children to lead as normal a life as possible through its educational system.

Ms. Mountjoy stated that: (1) it was important to remember that the Board had to balance: (a) the ability of the districts to provide the time and resources to provide the appropriate services; and (b) the needs of the students; (2) the primary purpose of these administrative regulations was to provide an appropriate education to students who needed the programs; and (3) the Board: (a) could not satisfy the requests made by every parent, administrator, or teacher; (b) focused on those changes: 1. favored by a preponderance of people; and 2. which placed the needs of the children first; (c) asked the Department to prepare material for parents that: 1. were written in plain English; and 2. explained available services and the process for resolving problems or answering questions; and (d) wanted to make sure that parents were partners in the schools in providing the best services for their students.

In response to questions by Senator Roeding, Ms. Kibler stated that: (1) the procedures for disciplining students were established in an administrative regulation; (2) 707 KAR 1:280 reflected requirements of federal law that a student suspended for more than eleven days, who was expelled was subject to reevaluation in 180 days; (3) the Department promulgated an administrative regulation: 707 KAR 1:360, regarding confidentiality of information: (a) did not affect local school board actions; (b) reflected federal requirements; and (c) was similar to requirements that had been in place since before 1993; (4) local school districts developed service plans; (5) regarding monitoring, prior to this past school year, the Department focused on compliance with administrative regulations; (6) beginning this year, the Department's focus: (a) was more on student outcomes and progress; and (b) included complaints as required by federal law; (7) the Department hoped that the: (a) school districts would spend less time and money with the new process because the Department would be looking at informal school districts routinely gathered and already kept; and (b) new requirements would be less burdensome; and (8) the Department had looked at programs implemented in other states.

In response to questions by Senator Roeding, Mr. Noland stated that: (1) the reviews were conducted by the Board; (2) federal law required services be delivered to a student regardless of the child's location; and (3) if a child with a disability moved from a large district to a small district, federal law required the child to be served in the new area without significant change in the child's education plan.

In response to questions by Representative Lee, Mr. Noland stated that: (1) 707 KAR 1:381 and 707 KAR 1:340 were deferred to address technical changes recommended by Subcommittee staff; (2) because the Board, not the Department, was authorized to promulgate these administrative regulations, the Board needed to approve substantive amendments; (3) the Board's next meeting was scheduled for August 1; (4) the suggested amendments would: (a) clarify the voluntary mediation process available to parents; and (b) incorporate by reference a model form for parents to use; and (5) the Department would talk with involved parents and try to accommodate them as much as possible.

Ms. Long stated that: (1) she was a parent of a special education child; (2) she and Ms. Grissedd had: (a) followed the procedures for these administrative regulations; and (b) attended the two public hearings; (3) these administrative regulations needed to comply with state and federal laws; (4) even though these administrative regulations were in their fifteenth version, these administrative regulations still did not comply with the federal Individuals with Disabilities Education Act and state law; (5) 707 KAR 1:340 did not: (a) adequately address due process and procedures for formal complaints and mediation; and (b) comply with federal law; (6) she supported the elimination of needless paperwork and duplicate information; (7) 707 KAR 1:380 did not establish specific timelines, including the number of appeals which affected the need for sanctions; (8) the Department would not enforce corrective action plans, which enabled local school districts that had been found out of compliance; (9) she was concerned that 707 KAR 1:380 included a statement that: (a) provided that the Department shall not initiate further sanctions during the time period established in the corrective action plan unless requested by the local education agency; and (b) gave the local education agency an opportunity to control the: 1. corrective action plan; and 2. outcome of a complaint against the local education agency; (10) the timelines or criteria for appeals, especially the rights of local education agencies to appeal a decision, were not established by: (a) federal law; or (b) these administrative regulations; and (11) 707 KAR 1:380: (a) was not written in logical order, because topics were mixed; and (b) should not be approved until: 1. the subject matters were clearly organized; and 2. the appeals procedures for local education agencies were established.

Subcommittee staff stated that: (1) KRS Chapter 13B established
specific procedures and timelines for administrative hearings and appeals; and (2) those procedures required: (a) a hearing officer to: 1. hear the case; 2. make a decision; and 3. refer his initial decision to the agency head; (b) the agency head to make a final decision; and (c) if a party disagrees with the agency head's decision, that party to file suit in circuit court in the county where the school was located.

Ms. Grissett stated that: (1) she was a: (a) parent of an adult with special education needs; and (b) grandmother of five children with learning disabilities; (2) she had talked with Subcommittee staff about the differences between these administrative regulations and federal law; (3) 34 CFR 300.508: (a) required an impartial hearing officer; and (b) provided that a hearing could not be conducted by an employee of the state agency; (4) under KRS Chapter 13B, the agency head was usually the hearing officer; and (5) 707 KAR 1:340 did not include the hearing rights required by, and established in, 34 CFR 300.509.

Chairman Arnold stated that because 707 KAR 1:340 was de-furred, the comments should focus on administrative regulations currently under consideration.

Ms. Grissett stated that: (1) the definition of adverse affect meant that the progress of the child was impeded by the disability to the extent that the educational performance was significantly and consistently below the level of similar age peers; (2) there was an adverse affect on the “normal” student in disability committee meetings of the child’s entire life and education; (3) she did not think it made sense to require that an orthopedically-handicapped child be behind academically in order to identify the child; (4) this definition (included in 707 KAR 1:280, Section 1(2)) was a major flaw; (5) children should be kept as close as possible to their grade level; (6) some words in the federal regulations had been changed; (7) the federal regulations required that certain criteria be met to determine whether a child had a disability; and (7) she submitted a packet that explained her concerns to Subcommittee members.

Ms. Brown stated that: (1) she: (a) was a parent from Jefferson County; and (b) had an eight and a half year old daughter with multiple needs in special education; (2) her daughter Morgan: (a) was: 1. born with multiple disabilities which resulted in her being visually impaired, profoundly deaf, and developmentally delayed; 2. in a wheelchair; and 3. she would not want to take care of herself; (3) she was already attending Morgan High School, a placement specialist called, prior to the placement meeting, to inform the family that a slot had been saved in the functional mental disability (FMD) classroom in the neighborhood school, which was not accessible to children in wheelchairs; (7) at the first meeting, several professionals stated that Morgan would be better placed in a classroom that only included children with disabilities; (8) she disagreed with that decision because Morgan had spent her first five (5) years in an inclusive environment; (9) reluctantly, the school system placed Morgan in a regular kindergarten classroom, in which the teachers: (a) were not prepared to address Morgan’s needs; and (b) did not have the training and support needed to help Morgan be successful in the classroom; (10) she: (a) had fought constantly for her daughter, who was now in fourth grade, to remain in a regular classroom, but the regular teachers did not know how to adapt her schoolwork; (b) she knew this program was the only program in which Morgan’s education plan; (b) was not able to return to work because she spent ninety (90) percent of her time: 1. getting her daughter’s education; and 2. helping other families who had children with disabilities; (c) did not know how to improve these administrative regulations; and (d) was disappointed that the Department: 1. chose to follow minimum federal standards; and 2. did not provide additional clarification to local school districts about what the meaning of federal regulations; (11) local school districts: (a) struggled with the federal regulations; and (b) interpreted the meaning of an “appropriate education” differently in each school district; (12) over 800 teachers were emergency certified to teach special education in Jefferson County; (13) the majority of people who attended the public hearings were school administrators; (14) she questioned whether these administrative regulations met the needs of most parents, especially since over ninety-thousand students in Kentucky had an individual education plan; (15) all children should be participating in regular education; (16) children should not be segregated; (17) if teachers were trained, the teachers should be able to take care of any child with a disability; and (18) many parents did not know that they could question the decisions made by the education professionals in the best interests of their children.

Representative Lee stated that: (1) the 138 legislators in the Kentucky General Assembly were dedicated individuals; (2) if a parent called him regarding problems with the education of a special needs child, he would take the time to meet with the educational system and resolve the parents’ determination; (3) parents should feel free to contact their local legislators for assistance in resolving those issues; (4) the General Assembly could address statutory problems while in session to make the requirements crystal clear; (5) local legislators were an asset in working with the school districts; (6) he: (a) received many calls each day regarding special needs and human delivery services; (b) had a great relationship with his local school districts; and (c) had not been involved in a situation yet in which they could not work out the problems; (7) parents should ask legislators specifically for help.

Ms. Braun stated that: (1) she: (a) was an advocate for the disabled; (b) had attended a private school system in the 1960s; (c) was not satisfied that, according to committee regulations, the Department and the not to segregate special needs students because those students may become doctors or lawyers someday; and (2) rather than looking at a student’s disabilities, the school system should look at the student’s minds.

Ms. Teeters stated that: (1) she: (a) was the Director of Special Education for Union County Schools; (b) had a child with a disability; (c) was concerned that special education was not housed with their regular education issues; (e) supported these administrative regulations; and (f) hoped the Subcommittee would approve these administrative regulations; (2) while there were areas in which these administrative regulations were not perfect, she believed there had been a great effort to pull together as much consensus as possible; (3) schools needed to do a better job of ensuring that the schools, teachers, and administrators gained the trust of the parents and students; (4) all persons interested in special education needed to work together; (5) they_shortly at take (6) the state was working short of special education teachers; (6) teachers have: (a) transferred from special education to regular education because of the paperwork requirements; and (b) removed their special education designation from their certification; and (7) special education was a high pressure job without additional funds to attract quality teachers.

Mr. Mooneyen stated that: (1) he was the: (a) Superintendent of Schools for Shelby County; (b) chairperson of the student Advisory Council; (2) the Council: (a) was established by the legislature; (b) was required to: 1. review all administrative regulations; and 2. advise the Board; (c) was extensively involved in the review of these administrative regulations; and (d) wanted the state administrative regulations to mirror federal law and regulations; (2) these administrative regulations: (a) were basically in compliance with the federal regulations; and (b) did not exceed federal requirements, except for a few areas; (3) the Council believed that these administrative regulations: (a) should be approved by the Subcommittee; (b) represented a compromise that took into consideration concerns raised by all stakeholders; and (c) would better serve special education students; (4) currently, the focus appeared to be on monitoring paperwork; (5) under these administrative regulations, the focus would be shifted to the: (a) quality of programs and services provided to special education students; and (b) achievement gap, and a group of programs; (c) the (d) Sub委员会 should approve these administrative regulations because they: (a) were a step forward in special education; (b) would better serve students; and (c) relieved teachers of unnecessary paperwork.

Mr. Muntz stated that: (1) he: (a) had served twenty-five years as a teacher in special education and director of special education; (b) had spent the last six years as a special education consultant; and (c) wanted to commend the legislators for taking the leadership role in reforming special education: (2) the Office of Education Accountability had been commissioned to conduct two studies on special education; (3) the first study: (a) outlined the many problems in the field; and (b) was prepared in 1998; (4) the second study: (a) was done on the paperwork issue; and (b) made recommendations on solutions on those problems; (5) in the fall, the Subcommittee on Elementary and Secon-
dary Education unanimously passed a resolution that urged the Board to promulgate administrative regulations that adhered to, but did not exceed, the federal requirements except when necessary to provide educational services and protections to students with disabilities; (6) he appreciated the confluence Subcommittee members must feel when given different views of these issues; (7) after thirty-one years in special education, he sometimes considered it a challenge to figure out the status of special education in Kentucky; (8) at national conferences, the state is heralded as the leading state in the nation; (9) the OEA report states that: (a) Kentucky has a thirty-four percent drop-out rate; (b) sixty-eight percent of students drop out in some areas; (c) students were not graduating with a diploma; and (d) Kentucky’s graduation rate had declined from fifty-eight percent in 1989 to forty-seven percent now; (10) newspapers report the Board of Education staffed with noncertified teachers who did not know how to teach special education students; (11) surveys of special education teachers indicate that many were teachers in the process of quitting and having their special education certification removed; (12) a recent survey pointed out that 44.9% of openings were in Kentucky for special education teachers, with 218 certified applicants available; (13) the teacher shortage would get even worse in future years; (14) teachers were now required to spend much of their time on areas other than instruction of students because of paperwork requirements; (15) these administrative regulations: (a) would enable Kentucky to: 1. focus on the education of students with disabilities; and 2. reinforce teachers to enter or remain in the field; (b) maintained the safeguards and protections available to parents under the federal law; and (c) could not become effective until approved by the Office of Special Education Programs. The Board could approve administrative regulations that did not comply with the federal law; (16) the monitoring system would focus on students and their progress, not only on paperwork; and (17) these administrative regulations: (a) had widespread support because 1. people across the state had several opportunities to provide input into their development; and 2. various interest groups across the state had worked together to reach a compromise on their provisions; and (b) did not address 1. the School Improvement Plan; 2. Children, which was comprised, pursuant to federal law, of over fifteen percent of parents of students with disabilities and individuals with disabilities; 3. Council of Administrators of Special Education; 4. Kentucky Association of School Administrators; 5. Kentucky School Board Association; 6. Central Kentucky Co-Op of Elementary Principals; and 6. Council for Exceptional Children.

In response to questions by Chairman Arnold, Mr. Noland stated that these administrative regulations: (1) reduced the paperwork to enable teachers to focus on the students; (2) ensured inclusion of children with disabilities in regular classrooms, which was also a federal requirement; and (3) would be implemented as intended by the Board.

In response to questions by Representative Lee, Mr. Noland stated that: (1) 707 KAR 1:380, Section 17, provided that the Department shall not initiate further sanctions during the time period specified in the corrective action plan unless requested by the local education agency; (2) the 1988 General Assembly amended a statute that established a process that required the Department, as it monitored and enforced special education laws, it could not automatically jump to the end and withhold funds if they are not complying with the law; that bill set up a progress plan. In response to a question by Representative Lee, Ms. Kibler stated that possible sanctions that could be requested under 707 KAR 1:280 included: (1) technical assistance; (2) consultation from the Department; (3) additional training; (4) a special education mentor; or (5) other actions in response to a local education agency’s failure to comply with applicable requirements.

In response to questions by Representative Lee, Mr. Noland stated that the Department sometimes considered: (a) listed deficiencies; and (b) established a timeline for improvements; and (2) a local district: (a) was required to implement a corrective action plan; and (b) might request technical assistance from the Department.

Senator Roeding stated that parents should inform legislators about their needs to enable legislators to assist them.

Representative Lee stated that: (1) he wanted the parents and others concerned about special education to know that the Subcommittee would monitor the implementation of these administrative regulations; (2) the paperwork reduction should enable teachers to have more time to attend to students and their needs; and (3) if the implementation of these administrative regulations did not benefit special needs students or if it hindered their education, the Subcommittee would reconsider these administrative regulations to determine if a finding of deficiency should be made.

Mr. Nonte did not include parent organizations in his list of supporting organizations; and (2) he believed it was significant that: (a) there were hundreds of parent organizations in Kentucky; and (b) parent organizations were not: 1. included in his list; and 2. present at the Subcommittee meeting to support these administrative regulations.

Chairman Arnold stated that: (1) he: (a) agreed with the comments made by each of the Subcommittee members and each presenter; (b) understood both sides of the issues; and (c) wanted to thank each person who attended the Subcommittee meeting because their attendance: 1. showed concern for special education; and 2. was most helpful to Subcommittee members; (2) while these administrative regulations were not perfect, they provided a starting place; and (3) these administrative regulations, as amended, would be approved by the Subcommittee.

1. 1:280. Definitions. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 were amended to comply with the drafting requirements of 13A.KAR.13A.222(4); and (2) Section 1(52) was amended to alphabetize the definitions, as required by KRS 13A.222(4)(6).

707 KAR 1:290. Free appropriate public education. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to comply with the drafting requirements of KRS 13A.222(4).

707 KAR 1:300. Child find, evaluation, and reevaluation. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to comply with the drafting requirements of 13A.KAR.13A.222(4).

707 KAR 1:310. Determination of eligibility. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to comply with the drafting requirements of KRS 13A.222(4).

707 KAR 1:320. Individual education program. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 were amended to comply with the drafting requirements of KRS 13A.222(4); and (2) Section 5 was amended to comply with the formatting requirements of KRS 13A.222(4).

707 KAR 1:330. Comprehensive system of personnel development. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 were amended to comply with the drafting requirements of KRS 13A.222(4).

707 KAR 1:350. Placement decisions. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 were amended to comply with the drafting requirements of KRS 13A.222(4).

707 KAR 1:360. Confidentiality of information. This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 7 were amended to comply with the drafting requirements of KRS 13A.222(4).

707 KAR 1:370. Children with disabilities enrolled in private schools. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to comply with the drafting requirements of KRS 13A.222(4); and (2) Section 6 was amended to comply with the formatting requirements of KRS 13A.222(4).

707 KAR 1:380. Monitoring and recovery of funds. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 6 were amended to comply with the drafting requirements of KRS 13A.222(4); and (2) Section 6 was amended to comply with the formatting requirements of KRS 13A.222(4).

Department of Insurance: Assets and Liabilities

806 KAR 6:075. Valuation of life insurance policies. Mona Carter, Deputy Commissioner, Brian Staples, Director, Life Insurance Divi-
sion, and Russ Coy, Attorney, represented the Department.

In response to a question by Senator Roeding, Ms. Carter stated that this administrative regulation would not chase insurance companies out of the state.

In response to questions by Senator Roeding, Mr. Staples stated that: (1) in the past, some insurance companies had developed a practice of under-reserving, in which a company: (a) offered products below cost; and (b) might not have enough money to pay claims on valid policies; (2) the Department: (a) had not identified a specific number of companies that engaged in that practice; and (b) recognized that a large number of companies currently operating in Kentucky had followed proper reserving practices; (3) the actuarial tables changed throughout the years to reflect new diseases; (4) death rates in Kentucky had increased; (5) because of that increase, some companies had not established proper reserves; (6) companies may need to increase prices by a maximum of fifteen percent to establish proper reserve amounts; (7) those potential price increases would: (a) not affect current policies; and (b) affect future policies; and (8) even though people were living longer, the death rate was higher because there were more people in Kentucky.

Representative Bruce stated that this administrative regulation was intended to protect persons who bought policies because of high scheme advertising used by some companies.

Mr. Staples stated that the Department wanted to insure solvency within the companies.

In response to questions by Senator Roeding, Ms. Carter stated that: (1) twenty-four states had already adopted similar provisions to this administrative regulation; (2) most states that adopted the provisions before 2000 because the new reserving and actuarial tables became effective in 2000; (3) seven states were in the process of adopting these provisions, which would be standard throughout the industry; and (4) the states surrounding Kentucky had previously adopted these provisions.

This administrative regulation was amended as follows: (1) Section 7 was amended to comply with the formatting requirements of KRS 13A.220(4); and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, 5, and 6 were amended to comply with the drafting requirements of KRS 13A.222(4).

Cabinet for Health Service: Department for Public Health: Emergency Medical Technicians


In response to questions by Senator Roeding, Mr. Calhoun stated that: (1) these administrative regulations (902 KAR 13:010 through 902 KAR 13:171) were promulgated in response to House Bill 312, enacted during the 2000 Regular Session, which dealt with the national registry of EMT requirements; (2) the law was changed in the 2000 session to: (a) require the registry for initial certification; and (b) make the registry optional thereafter; and (3) the Department had heard complaints about the required registry for the last four years.

This administrative regulation was amended as follows: Section 1(4) was amended to clarify "certified".

902 KAR 13:070. Emergency medical technician-basic instructors and EMT-instructor trainers. In response to a question by Senator Roeding, Mr. Calhoun stated that a hospital would qualify as an EMS mission.

This administrative regulation was amended as follows: Sections 5 and 8 were amended to correct minor typographical errors.

902 KAR 13:090. Disciplinary actions. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to delete a citation to KRS Chapter 13B; and (2) Sections 1(1) and 1(2) were amended to delete statutory citations.

902 KAR 13:110. Emergency medical technician-first responder training, examination, and certification. This administrative regulation was amended as follows: (1) Section 3(6) was amended to correct a statutory citation; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 6 were amended to correct minor typographical errors.

902 KAR 13:160. Emergency medical services educational institutions and emergency medical services testing agencies. This administrative regulation was amended as follows: the TITLE and Section 1 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Emergency Medical Services and Ambulance Service Providers

902 KAR 14:070. License procedures and fee schedule for ambulance providers. In response to a question by Representative Bruce, Mr. Calhoun stated that this administrative regulation did not change the fee schedule.

This administrative regulation was amended as follows: the STATUTORY AUTHORITY: paragraph was amended to delete a citation to KRS Chapter 13B.

902 KAR 14:080. Class I ground ambulance providers. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) Section 1(8) was amended to insert KRS citations to clarify requirements; (3) Section 3(2)(a)(3) was amended to delete the language due to changes mandated by HB 405; (4) Section 2(1)(b)(2) was amended to delete language regarding discrimination based on sexual orientation or ability to pay; (5) Section 3(2)(b)(4) was amended to correct a statutory citation; and (6) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 4, and 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

902 KAR 14:090. Air ambulance service providers. This administrative regulation was amended as follows: (1) Section 1(1) was amended to define "air ambulance service"; (2) Section 2(b) was amended to change "permitted" to "licensed"; and (3) Section 10(4) was amended to delete language to comply with HB 405.

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: Protection and Permanency: Child Welfare


In response to a question by Representative Bruce, Mr. Jennings stated that this administrative regulation did not involve the Kentucky Baptist Homes.

In response to a question by Senator Roeding, Mr. Jennings stated that Section 12 of this administrative regulation increased payments paid to assist the resource home parents in obtaining the training needed to qualify.

This administrative regulation was amended as follows: (1) the material incorporated by reference was amended to: (a) change the name of a form; (b) insert a section requiring the applicant's signature for release of medical information; (c) add physician's assistant as a health care professional; and (d) delete the requirement for the applicant to supply health information not relevant to approval as a resource home; (2) the RELATES TO paragraph was amended to correct statutory citations; and (3) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 10 and 12 through 19 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Kentucky Higher Education Assistance Authority: Division of Student Services: Kentucky Educational Savings Plan Trust

11 KAR 12:040. Residency classification for Kentucky Educational Savings Plan Trust vested participation agreements. Richard Casey, General Counsel, and Linda Renscher, Branch Manager, Student Aid Branch, represented the Authority.


11 KAR 12:070. Benefits payable from the Kentucky Educational Savings Plan Trust Program fund.

Commonwealth Merit Scholarship Program


Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:020 & 6. Corrections policies and procedures. Steve Durham, General Counsel, and Tamela Biggs, Staff Attorney, represented the Department.
In response to questions by Representative Lee, Subcommittee staff stated that: (1) this administrative regulation complied with applicable statutory authority; (2) the initial staff review noted that a required form was not made available to the public; and (3) personal information on the form was given to the general public under the statutory requirements.

Department of Insurance: Health Maintenance Organizations
806 KAR 38:09. Repeal of 806 KAR 38:090. Mona Carter, Deputy Commissioner, and Shaun Orme, Counsel, represented the Department.

In response to questions by Senator Roeding, Mr. Orme stated that: (1) he did not believe this administrative regulation would have an effect on whether insurance companies stayed in the state; and (2) this administrative regulation repealed 806 KAR 38:090, relating to open enrollment, because: (a) the authorizing statute was repealed in 1996; and (b) Kentucky has guaranteed issue.

Cabinet for Health Service: Department for Public Health: Emergency Medical Technicians
902 KAR 13:00. Requirements for examination, certification and recertification of the emergency medical technician-basic. Marci Burrows, Supervisor, Training and Certification Branch, and Robert Calhoun, EMS Program Branch Manager, represented the Department.

902 KAR 13:00. Emergency medical technician-basic authorized procedures.

902 KAR 13:170. Emergency medical technician-basic course requirements.


921 KAR 2:560. Time and manner of payments. Rosanne Barkley represented the Department.

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the next meeting of the Subcommittee:

Board of Barbering
201 KAR 14:180. License fees, examination fees, renewal fees and expiration fees.

Board of Licensure of Marriage and Family Therapists
201 KAR 32:030. Fees.
201 KAR 32:081. Inactive licensure status.
201 KAR 32:101. Reinstatement of license subject to disciplinary action.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game
301 KAR 2:221E. Waterfowl seasons and limits.

Justice Cabinet: Department of Corrections: Office of the Secretary
501 KAR 6:190 & E. Approval process for mental health professionals performing comprehensive sex offender presence evaluations.

Education, Arts and Humanities Cabinet: Board of Education: Department of Education: Division of Exceptional Children Services: Exceptional and Handicapped Programs

Workforce Development Cabinet: Department for Technical Education: General Administration
780 KAR 1:010, 2001-2004 program plan.

Management of the Kentucky TECH System
780 KAR 2:011. Repeal of administrative regulations in 780 KAR Chapter 2.
780 KAR 2:020. Steering and advisory committees for area technology centers primarily serving secondary students.
780 KAR 2:040. Work force projects.
780 KAR 2:050. Discipline of students.
780 KAR 2:110. Student medical and accident insurance.
780 KAR 2:140. Tuition and fees.

Instructional Programs
780 KAR 4:010. General standards.
780 KAR 4:011. Repeal of administrative regulations in 780 KAR Chapter 4.

Veterans' Approval Agency
780 KAR 5:011. Repeal of administrative regulations in 780 KAR Chapter 5.

Facilities and Equipment of the Kentucky TECH System
780 KAR 7:010. Definitions.
780 KAR 7:011. Repeal of administrative regulations in 780 KAR Chapter 7.
780 KAR 7:020. Area technology center facility standards.
780 KAR 7:040. Facility maintenance.
780 KAR 7:060. Equipment inventory.

Adult Education

Department of Financial Institutions: Securities
808 KAR 10:030. Conduct of broker-dealers, agents, and employees; investment advisers and representatives.
808 KAR 10:040. Dishonest or unethical practice defined.

Cabinet for Health Services: Department for Public Health: Radiology
902 KAR 100:010. Definitions.
902 KAR 100:036. Repeal of 902 KAR 100:035.
902 KAR 100:040. General provisions for specific licenses.
902 KAR 100:041. Quanitities of radioactive materials requiring consideration of the need for an emergency plan.
902 KAR 100:042. Decommissioning and financial surety.
902 KAR 100:045. Exemptions.
902 KAR 100:058. Specific licenses to manufacture, assemble, repair, or distribute products.
902 KAR 100:070. Transportation of radioactive material.
902 KAR 100:085. Exempt concentrations.
902 KAR 100:165. Notices, reports and instructions to employees.

Division of Licensing and Regulation: Office of Inspector General
906 KAR 1:110E. Critical access hospital services.

Department for Medicaid Services: Medicaid Services
907 KAR 1:012E. Inpatient hospital services.
907 KAR 1:013E. Payments for hospital inpatient services.
907 KAR 1:044E. Mental health center services.

Payment and Services
907 KAR 3:066E. Nonemergency medical transportation waiver services and payments.

Department for Mental Health and Maternal Child Health Services: Mental Health
908 KAR 2:210E. Domestic violence offender treatment certification standards.

Institutional Care
908 KAR 3:050E. Per diem rate pursuant to the "Patient Liability Act of 1978."

OTHER BUSINESS:

Next Meeting:
The Legislative Research Commission approved the Subcommit-
tee's request to reschedule the August meeting to Tuesday, August 1, 2000 at 10:00 because of a scheduling conflict for many members on the regular meeting date.

The Subcommittee adjourned at 12:20 p.m. until August 1, 2000, at 10 a.m. in Room 149 of the Capitol Annex.
CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.................................................................B - 2

The Locator Index lists all administrative regulations published in VOLUME 27 of the Administrative Register from July, 2000 through June, 2001. 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 26 are those administrative regulations that were originally published in Volume 26 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2000 bound Volumes were published.

KRS Index........................................................................................................B - 9

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 27 of the Administrative Register.

Subject Index....................................................................................................B - 13

The Subject Index is a general index of administrative regulations published in VOLUME 27 of the Administrative Register, and is mainly broken down by agency.
**LOCATOR INDEX - EFFECTIVE DATES**

The administrative regulations listed under VOLUME 26 are those administrative regulations that were originally published in Volume 26 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2000 bound Volumes were published.

### EMERGENCY ADMINISTRATIVE REGULATIONS:

<table>
<thead>
<tr>
<th>Regulation Number</th>
<th>Page No.</th>
<th>Effective Date</th>
<th>Regulation Number</th>
<th>Page No.</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
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B - 4
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## VOLUME 27

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(Note: Emergency regulations expire 170 days from publication; or 170 days from publication plus number of days of requested extension; or upon replacement or repeal, whichever occurs first)

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B - 11
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</table>
SUBJECT INDEX

ACCOUNTANCY, STATE BOARD
Certificate of experience; 201 KAR 1:063
Firm license; 201 KAR 1:061
Individual license renewal and fee; 201 KAR 1:065
License application; 201 KAR 1:050
License application under substantial equivalency standards; 201 KAR 1:170
Peer reviews; 201 KAR 1:160
Repeal of 201 KAR 1:068; 201 KAR 1:069
Teaching accounting courses, experience verification; 201 KAR 1:064

ADMINISTRATIVE SERVICES (HEALTH SERVICES)
Vital statistics; 901 KAR Chapter 5

ADULT AND TECHNICAL SERVICES
Personnel System for Certified and Equivalent Employees
Employee evaluations; 780 KAR 3:035

AIR QUALITY
Administrative Procedures
Repeal of various administrative regulations; 401 KAR 50:071
National Ambient Air Quality Standards; Attainment, Maintenance
Regional NOx emission requirements; 401 KAR 51:200
Permits, Registrations, Prohibitory Rules
Acid rain permits; 401 KAR 52:060
Definitions; 401 KAR 52:001
Federally-enforceable permits for nonmajor sources; 401 KAR 52:030
Permit application forms; 401 KAR 52:050
Prohibitory rule for hot mix asphalt plants; 401 KAR 52:090
Public, affected state, U.S. EPA review; 401 KAR 52:100
Registration of designated sources; 401 KAR 52:070
Regulatory limit on potential to emit; 401 KAR 52:080
State-origin permits; 401 KAR 52:040
Title V permits; 401 KAR 52:020

ATTORNEY GENERAL
Prosecutors Advisory Council
Payment schedule for medical examinations of victims of sexual offenses; 40 KAR 3:010E

CERTIFICATE OF NEED (HEALTH SERVICES)
Certificate of need; 900 KAR 6:050
Expenditure minimums; 900 KAR 6:030

CHIEF STATE SCHOOL OFFICER
(See Education, Arts, and Humanities Cabinet)

CHILD SUPPORT
Child Support Program application process; 921 KAR 1:380
Establishment, review, modification of child support, medical support orders; 921 KAR 1:400E

CHILD WELFARE
Adoption assistance approval; 922 KAR 1:050E
Family Preservation Program; 922 KAR 1:410
Private child care placements, levels of care, payment; 922 KAR 1:380E
Supportive services; 922 KAR 1:400

CORRECTIONS
Institution Policies and Procedures
Blackburn Correctional Complex; 501 KAR 6:120
Corrections policies, procedures; 501 KAR 6:020E
Kentucky State Penitentiary; 501 KAR 6:040
Kentucky State Reformatory; 501 KAR 6:030
Secured policies and procedures; 501 KAR 6:999

COUNCIL ON POSTSECONDARY EDUCATION
(See Postsecondary Education)

CRIMINAL JUSTICE TRAINING
General Training Provisions
Training charges; 503 KAR 3:030
Kentucky Law Enforcement Council
Peace officer professional standards; 503 KAR 1:140E

ECONOMIC DEVELOPMENT
Economic Development
Definitions; 306 KAR 1:010

EDUCATION
(See Education, Arts, and Humanities Cabinet)

EDUCATION, ARTS, AND HUMANITIES CABINET
Chief State School Officer's Office
Use of local monies to reduce unmet technology need; 701 KAR 5:110
Education Professional Standards Board; 704 KAR Chapter 20
Special Instructional Services
Fiscal management; 705 KAR Chapter 2

EDUCATION PROFESSIONAL STANDARDS BOARD
Admission, placement, supervision in student teaching; 704 KAR 20:706E
Certificates for teachers of exceptional children-communication disorders; 704 KAR 20:600E
Emergency certification, out-of-field teaching; 704 KAR 20:120E
Endorsement for teachers of gifted education; 704 KAR 20:280E
Substitute teachers, emergency school personnel; 704 KAR 20:210E
Teachers' National Certification Incentive Trust Fund; 704 KAR 20:750E

ELECTRICAL INSPECTORS
(See Housing, Buildings and Construction)

EMPLOYEES RETIREMENT
(See Retirement)

EMPLOYEES, STATE
(See also Personnel)
Personnel
Classified; 101 KAR Chapter 2

ENTERPRISE ZONE PROGRAM
(See Economic Development)

FAMILIES AND CHILDREN
Family Support
Child support; 921 KAR 1380
Protection and Permanency
Child welfare; 922 KAR Chapter 1

FINANCIAL INSTITUTIONS
Administration
Establishment, relocation of bank branch, offices; 808 KAR 1:150

FISH AND WILDLIFE RESOURCES
Fish
Boats and motor restrictions; 301 KAR 1:015
Game
Deer hunting on wildlife management areas; 301 KAR 2:178
SUBJECT INDEX

Deer hunting season, requirements; 301 KAR 2:172
Deer, turkey hunting on federal areas; 301 KAR 2:111
Hunting, trapping seasons, limits for furbearers, small game; 301 KAR 2:251
State park deer hunts; 301 KAR 2:179
Waterfowl seasons and limits; 301 KAR 2:221
Hunting and Fishing
Access to wildlife management areas for mobility-impaired individuals; 301 KAR 3:026
Water Patrol
Boat registration fees; 301 KAR 6:006

HEALTH PLAN (STATE)
(See Public Health)

HEALTH SERVICES
Administrative Services
Vital statistics; 901 KAR Chapter 5
Certificate of need; 900 KAR Chapter 6
Medicaid
Medicaid services; 907 KAR Chapter 1
Public Health
Maternal and child health; 902 KAR Chapter 4
State Health Plan; 902 KAR Chapter 17

HOUSING, BUILDINGS AND CONSTRUCTION
Electrical Inspectors
Certification of electrical inspectors; 815 KAR 35:015
Kentucky Building Code
1997 Kentucky Building Code; 815 KAR 7:105
Plumbing
House sewers, storm water piping; methods of installation; 815 KAR 20:130
Inspection and tests; 815 KAR 20:150
Minimum fixture requirements; 815 KAR 20:191
Parts or materials list; 815 KAR 20:020

INSURANCE
Agents, Consultants, Solicitors and Adjusters
Continuing education; 806 KAR 9:220E
Courses of studies, instructors; 806 KAR 9:001E
Examinations; 806 KAR 9:070E
Identification cards; 806 KAR 9:060E
Rental vehicle agent; 806 KAR 9:260E
Repeal of various administrative regulations; 806 KAR 9:006E
Specially credit insurance producer; 806 KAR 9:250E
Time limit for replacement of evidence of licensee financial responsibility; 806 KAR 9:210E
Unlicensed adjusters; 806 KAR 9:120E
Volume of insurance agent exchange of business; 806 KAR 9:200E

Fees and Taxes
Fees of the department; 806 KAR 4:010E
Health Insurance Contracts
Approval criteria, requirements for reentry into Kentucky health insurance market; 806 KAR 17:220E
Conversion policy minimum benefits; 806 KAR 17:260E
Independent external review program; 806 KAR 17:290E
Medical director's signature on health care benefit denials; 806 KAR 17:290E
Provider agreement filing requirements; 806 KAR 17:350E
Registration, utilization review, internal appeal; 806 KAR 17:280E
Standards health benefit plan, comparison format; 806 KAR 17:180E

Health Maintenance Organizations
Agent license; 806 KAR 38:020E
Insurance Contract
Property, casualty insurance form filings; 806 KAR 14:006E
Rate, form filing for life and health insurers; 806 KAR 14:006E
Life Insurance, Annuity Contracts
Licensing, reporting, general requirements for viatical settlement providers, brokers; 806 KAR 15:040

Rates and Rating Organizations
Property, casualty rate, rule filings; 806 KAR 13:150E
Unauthorized Insurers' Prohibitions, Process, and Advertising
Industrial insured, government entity insured, and exempt commercial policy/holder; 806 KAR 11:010E

JUSTICE CABINET
Corrections
Institution policies and procedures; 501 KAR Chapter 6
Criminal Justice Training
General training provisions; 503 KAR Chapter 1
Kentucky Law Enforcement Council; 503 KAR Chapter 1

LABOR
Workers' claims; 803 KAR Chapter 25

MATERNAL AND CHILD HEALTH
(See Public Health)

MEDICAID
Medicaid Services
Advanced registered nurse practitioner services; 907 KAR 1:102
Advanced registered nurse practitioner services, reimbursement; 907 KAR 1:104
Dental services, reimbursement; 907 KAR 1:626E
Durable medical equipment covered services, reimbursement; 907 KAR 1:478E
Inpatient hospital services; 907 KAR 1:102
Inpatient hospital services, payment; 907 KAR 1:013E
Medicaid service category expenditure minimum; 907 KAR 1:790E
Patient access and care system (KenPAC); 907 KAR 1:320E
Repeal of 907 KAR 1:200, 210, 406, 408, 476; 907 KAR 1:407
Repeal of 907 KAR 1:470, 472, 474; 907 KAR 1:475E
Supports for community living services for individuals with mental retardation or developmental disabilities, payments; 907 KAR 1:155E
Vision Program services, reimbursement; 907 KAR 1:631E

Payment and Services
Chiropractic services, payments; 907 KAR 3:120E
Health Access Nurturing Development Services Program, coverage and payments; 907 KAR 3:140E
Nonemergency medical transportation waiver services, payments; 907 KAR 3:066

MEDICAL LICENSURE, STATE BOARD
Medical, osteopathic schools approved by board; denial, withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees; 201 KAR 9:201E

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Environmental Protection
Air quality; 401 KAR Chapters 50, 51, 52

OCCUPATIONS AND PROFESSIONS
Accountancy; 201 KAR Chapter 1
Medical licensure; 201 KAR Chapter 9
Pharmacy; 201 KAR Chapter 2
Social work; 201 KAR Chapter 23

PEACE OFFICERS
(See Criminal Justice Training)
SUBJECT INDEX

PERSONNEL
Classified
Worker's Compensation Fund, Program; 101 KAR 2:140

PHARMACY, BOARD OF
Pharmacist-in-charge; 201 KAR 2:205
Special limited pharmacy, charitable pharmacy; 201 KAR 2:240

PLUMBING
(See Housing, Buildings and Construction)

POSTSECONDARY EDUCATION
Public Educational Institutions
Kentucky Educational Excellence Scholarship; 13 KAR 2:090

PROSECUTORS ADVISORY COUNCIL
(See Attorney General)

PUBLIC HEALTH
Maternal and Child Health
Health Access Nurturing Development Services Program; 902 KAR 4:120E
State Health Plan
Plan for facilities and services; 902 KAR 17:041

PUBLIC PROTECTION AND REGULATION CABINET
Financial Institutions
Administration; 803 KAR Chapter 1
Insurance
Agents, consultants, solicitors and adjusters; 806 KAR Chapter 9
Fees and taxes; 806 KAR Chapter 4
Health insurance contracts; 806 KAR Chapter 17
Health maintenance organizations; 806 KAR Chapter 38
Insurance contract; 805 KAR Chapter 14
Life insurance, annuity contracts; 806 KAR Chapter 15
Rates and rating organizations; 806 KAR Chapter 13
Unauthorized insurers' prohibitions, process, and advertising; 806 KAR Chapter 11
Housing, Buildings and Construction
Electrical inspectors; 815 KAR Chapter 35
Kentucky Building Code; 815 KAR Chapter 7
Plumbing; 815 KAR Chapter 20

RETIREMENT
Kentucky Employees Retirement System
Medical insurance reimbursement plan; 105 KAR 1:290E

REVENUE
(See also Taxation)
Sales and Use Tax
Miscellaneous retail transactions; 103 KAR Chapter 28

SOCIAL WORK, BOARD OF
Code of ethical conduct; 201 KAR 23:080
Qualifying education, qualifying experience under supervision; 201 KAR 23:070
Temporary permission to practice; 201 KAR 23:015

SPECIAL INSTRUCTIONAL SERVICES (EDUCATION)
Fiscal Management
Equalization of funding for locally-operated area vocational centers and vocational departments; 705 KAR 2:140E

TAXATION
Sales and Use Tax
Miscellaneous Retail Transactions
Telephonic and telegraphic communications and services; 103 KAR 28:140E

TOURISM CABINET
Fish and Wildlife Resources
Fish; 301 KAR Chapter 1
Game; 301 KAR Chapter 2
Hunting and Fishing; 301 KAR Chapter 3
Water patrol; 301 KAR Chapter 6

VITAL STATISTICS
Fees for searches, certified copies of certificates and records; 901 KAR 6:050E

WORKERS' CLAIMS
Charges by attorneys; 803 KAR 25:070E
Procedure for adjustment of claims; 803 KAR 25:010E
Provision of workers' compensation rehabilitation services; 803 KAR 25:101E
Resolution of medical disputes; 803 KAR 25:012E

WORKFORCE DEVELOPMENT CABINET
Adult and Technical Education
Personnel system for certified and equivalent employees; 780 KAR Chapter 3